DOCUMENT RESUME

ED 434 422 EC 307 420

AUTHOR Ordover, Eileen L.; Annexstein, Leslie T.
TITLE Ensuring Access, Equity, and Quality for Students with Disabilities in School-to-Work Systems: A Guide to Federal Law and Policies.
INSTITUTION Center for Law and Education, Washington, DC.; National Transition Network, Minneapolis, MN.; Minnesota Univ., Minneapolis. Coll. of Education.
SPONS AGENCY Office of Special Education and Rehabilitative Services (ED), Washington, DC.
PUB DATE 1999-06-00
NOTE 106p.; UIL/Subgrant-98-178, 1-5-3307.
AVAILABLE FROM Publications Office, Institute on Community Integration, University of Minnesota, 109 Pattee Hall, 150 Pillsbury Dr., SE, Minneapolis, MN 55455; Tel: 612-624-4512 (Voice); Fax: 612-624-9344; Web sites: <http://www.ici.coled.umn.edu/ici/>; <http://www.ici.coled.umn.edu/ntn/>.
PUB TYPE Guides - Non-Classroom (055)
EDRS PRICE MF01/PC05 Plus Postage.
DESCRIPTORS Case Studies; Compliance (Legal); *Disabilities; *Education Work Relationship; *Educational Legislation; *Educational Principles; Educational Quality; *Equal Education; *Federal Legislation; Federal Regulation; Program Development; Secondary Education; Student Participation; Vocational Education; Work Study Programs
IDENTIFIERS Americans with Disabilities Act 1990; Carl D Perkins Vocational Technical Educ Act 1998; Individuals with Disabilities Educ Act Amend 1997; Rehabilitation Act 1973 (Section 504); School to Work Opportunities Act 1994

ABSTRACT

This publication provides guidance to state and local administrators responsible for planning and implementing comprehensive school-to-work systems for all students, including youth with disabilities, under five key federal laws: (1) School-to-Work Opportunities Act of 1994; (2) Individuals with Disabilities Education Act (IDEA) as amended in 1997; (3) Carl D. Perkins Vocational and Technical Education Act of 1998; (4) Section 504 of the Rehabilitation Act of 1973; and (5) Americans with Disabilities Act of 1990. The eight chapters address the following topics: (1) an overview of the five key federal laws; (2) the meaning of "quality" in the provision of comprehensive school-to-work systems; (3) equity in quality systems (equity in program development, equity in entrance criteria, and linkage with IDEA); (4) the principle of equity in program development applied to a case study showing legal, policy, and practice implications; (5) the principle of equity in entrance criteria applied to a case study; (6) the principle of equity in entrance in relation to ensuring the participation of youth with disabilities in work-based learning opportunities; (7) method for linking with IDEA for quality and equity; and (8) quality evaluation of school-to-work systems including data collection, monitoring, and evaluation. (Individual chapters contain references.) (DB)

ED 434 422

Ensuring Access, Equity, and Quality for Students With Disabilities in School-to-Work Systems

A Guide to Federal Law and Policies

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)
✓ This document has been reproduced as received from the person or organization originating it.
☐ Minor changes have been made to improve reproduction quality.
• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

EC 307420

BEST COPY AVAILABLE

Ensuring Access, Equity, and Quality for Students With Disabilities in School-to-Work Systems

A Guide to Federal Law and Policies

Center for Law and Education,
Boston, MA & Washington D.C.

National Transition Network
Institute on Community Integration (UAP)

The College of Education & Human Development
UNIVERSITY OF MINNESOTA

June, 1999

This publication was developed by —

Eileen L. Ordover, Staff Attorney
Leslie T. Annexstein, Staff Attorney
Center for Law and Education, Washington, DC

David Johnson, Director
Mary Mack, Research Fellow
Gwen Willems, Editor
National Transition Network
Institute on Community Integration (UAP), University of Minnesota, Minneapolis

Rosemarie Park, Consultant
University of Minnesota, St. Paul

It was authored by Eileen L. Ordover and Leslie T. Annexstein who acknowledge and appreciate the contribution of Lauren Jacobs, whose earlier work at the Center for Law and Education provided an important foundation for many of the issues explored in this publication.

This publication is designed to help policymakers, administrators, educators, parents, attorneys, and advocates understand the complex area of the legal rights of youth with disabilities in school-to-work systems. It focuses on broad legal provisions germane to this topic; it is not intended to provide legal assistance for individual systems, partnerships, agencies, programs, schools, or students, and cannot substitute for the independent judgment of a competent attorney. Readers interested in getting help with a particular question or problem should contact an attorney.

Copyright © 1999 by the Center for Law and Education and the University of Minnesota. All rights reserved. Except as permitted under the United States Copyright Act of 1976, no part of this publication may be reproduced or distributed in any form or by any means, or stored in a database or retrieval system, without the prior written permission of the publisher.

This publication was developed through funds awarded to the Institute on Community Integration at the University of Minnesota by the United States Department of Education, Office of Special Education and Rehabilitative Services, subgrant number, UIL Subgrant 98-178, 1-5-3307. The contents of this document do not necessarily reflect the views or policies of the U.S. Department of Education, Institute on Community Integration, or University of Minnesota and no official endorsement should be inferred.

The University of Minnesota is committed to the policy that all persons shall have equal access to its programs, facilities, and employment without regard to race, color, creed, religion, national origin, sex, age, marital status, disability, public assistance status, veteran status, or sexual orientation.

Special thanks to —

The Joyce Foundation and the DeWitt Wallace-Reader's Digest Fund, for their support of the Center for Law and Education's Vocational Opportunity for Community and Educational Development (VOCED) project, which has enabled CLE staff to carry out the school-to-work analysis and implementation activities reflected in the writing of this publication.

This publication is available in alternative formats upon request. For additional copies or alternative formats, contact —

Publications Office
Institute on Community Integration
University of Minnesota
109 Pattee Hall, 150 Pillsbury Drive SE
Minneapolis, MN 55455
612-624-4512 (voice)
612-624-9344 (fax)

Publications Office
Center for Law and Education
Washington, DC
1875 Connecticut Avenue NW
Suite 510
Washington, DC 20009
202-462-7687 (voice)
202-462-7688 (fax)

http://www.ici.coled.umn.edu/ici (web)
http://www.ici.coled.umn.edu/ntn (web)

Table of Contents

Introduction / *i*

Chapter 1
Quality and Equity
Overview of Relevant Laws / **1**

Chapter 2
The "Quality" in Quality Programs
Access to What? / **21**

Chapter 3
Equity in Quality Systems
Three Guiding Principles / **33**

Chapter 4
Equity in Program Development / **51**

Chapter 5
Equity in Entrance Criteria: School-Based Learning / **61**

Chapter 6
Equity in Entrance Criteria: Work-Based Learning / **71**

Chapter 7
Linkage With IDEA for Quality and Equity / **79**

Chapter 8
Quality Evaluation
Data Collection, Monitoring, and Evaluation / **91**

Appendix / **101**

Introduction

The School-to-Work Opportunities Act of 1994 calls for the development of comprehensive school-to-work systems nationwide. The School-to-Work Act encompasses major restructuring and significant systemic change that facilitates the creation of a universal, high quality, school-to-work transition system that enables ***all*** students in the United States to successfully enter the workplace. The School-to-Work Act seeks to improve the knowledge and skills of all U.S. youth by emphasizing the critical importance of integrating academic and occupational learning, integrating school-based and work-based learning, and building effective linkages and partnerships between secondary and postsecondary education. In some states, quality workforce education is emerging as a constitutional right for all students. Courts are concluding that the right to education in their states' constitutions includes the right to academic and vocational skills preparation that enables all students to compete in postsecondary education programs and gainful employment. This publication addresses these and other policy issues.

The Key Principles of Equity and Quality

The concepts of equity and quality are the central themes of this publication.

This publication is about merging equity and quality in school-to-work systems nationwide. Since these concepts and principles are used throughout this publication, each is briefly defined here for the reader —

Equity

The parallel terms of *equity*, *equal access*, or *equitable participation* are used throughout this publication. These terms are used interchangeably and fundamentally have the same meaning. That is, by "equity" we mean the full and meaningful participation of students with disabilities in the high quality programs established for all students by emerging school-to-work systems.

Quality

The terms *quality programs*, *good quality programs*, and *high quality* are used in this publication to convey the same meaning. By "quality" we mean programs that prepare students for careers and are designed to meet the same high academic standards set by the state for all students. Quality programs integrate academic and occupational learning, provide strong understanding and experience in all aspects of an industry, develop higher order skills, and prepare students for postsecondary education. Quality programs also empower students to make career and life choices by giving them the flexibility and skills they will need to cope with labor market changes and technological change, and to develop new education and career goals over time.

Publication Purpose and Content

This guide helps state and local administrators to be more aware of their legal responsibilities.

The purpose of this publication is to provide guidance to state and local administrators and others responsible for planning and implementing comprehensive school-to-work systems for all students, including youth with disabilities. The primary audience for this publication includes: (a) directors of state and local school-to-work systems, special education programs, and vocational rehabilitation agencies; (b) school personnel, community service agency representatives, employers, family members, and others participating in school-to-work partnerships; and (c) members of professional associations, consumer and advocacy groups, and parent organizations. The information provided in this publication is intended to help develop a broader awareness of key federal legislation and policies that specifically address the participation of youth with disabilities in the full range of school-to-work opportunities being made available. The publication further supports administrative decisions and actions concerning the participation of youth with disabilities in school-to-work systems.

Examination of Federal Laws

Throughout this publication, five key federal laws are examined from the perspective of promoting equity and quality in the full participation of youth with disabilities within school-to-work opportunities systems across the country. These laws are —

Five key federal laws are relevant.

- School-to-Work Opportunities Act of 1994
- Individuals with Disabilities Education Act (IDEA), as most recently amended in 1997[1]
- Carl D. Perkins Vocational and Technical Education Act of 1998
- Section 504 of the Rehabilitation Act of 1973
- Americans with Disabilities Act of 1990

Chapter Organization

This publication is organized into eight chapters, each intended to provide specific information and examples of how these federal laws support the participation of youth with disabilities in school-to-work opportunities systems. More specifically —

Chapter 1

This chapter provides an overview of the five key federal laws. It illustrates how these laws collectively form the policy foundation for creating accessible, high quality school-to-work systems for all students, including students with disabilities.

Quality and Equity: Overview of Relevant Laws.

Chapter 2

The meaning of "quality" in the provision of comprehensive school-to-work systems for all students is addressed in chapter 2. Here, key components of the School-to-Work Opportunities Act are discussed in relation to their historical context and to other current federal education reform initiatives.

The "Quality" in Quality Programs.

Chapter 3

This chapter introduces three critical guiding principles — equity in program development, equity in entrance criteria, and linkage with IDEA for quality and equity. These key themes or guiding principles are discussed in relation to each of the five federal laws addressed throughout this publication.

Equity in Quality Systems: Three Guiding Principles.

Chapter 4

The principle of equity in program development is specifically examined in relation to an actual case study. Legal, policy, and practice implications of the issues raised by the case study are discussed.

Equity in Program Development.

Chapter 5

State and local school systems must carefully scrutinize entrance criteria for the school-based components of school-to-work systems. A case study approach is used to examine the legal, policy, and practical implications of establishing entrance criteria in providing access to school-based learning opportunities for all students.

Equity in Entrance Criteria: School-Based Learning.

Equity in Entrance Criteria: Work-Based Learning

Chapter 6

This chapter examines the principle of equity in relation to creating opportunities to ensure the participation of youth with disabilities in work-based learning opportunities. As in the preceding two chapters, a case study approach is used to examine entrance criteria for work-based learning in relation to the legal, policy, and practical implications of this issue for school-to-work systems.

Linkage With IDEA for Quality and Equity

Chapter 7

This chapter examines in detail how programmatic requirements, processes, and procedures under the IDEA can be used as tools for making real the right to equitable participation in the school-to-work opportunities created for all students. Methods for linking specific IDEA activities to particular school-to-work components are discussed.

Quality Evaluation: Data Collection, Monitoring, and Evaluation

Chapter 8

This chapter addresses the ongoing systemic activities necessary to ensure that students with disabilities are successfully participating in high quality school-to-work systems. Legal requirements regarding the establishment and operation of evaluation and data collection systems to monitor program performance; to identify and overcome barriers to access, participation, and success; and to identify the results achieved by youth with disabilities are discussed.

Limitations of the Publication

Not every relevant law is covered here.

The five federal laws identified on page iii are certainly not the only laws relevant to the design and implementation of school-to-work systems or to how all students can gain access to and participate in these learning opportunities. For example, several other federal laws address issues concerning equity and equal access. Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race or national origin. Title IX of the Education Amendments of 1972 prohibits gender discrimination. The Equal Educational Opportunities Act affords protections to students with limited-English proficiency.

Other key federal and state laws apply.

Further, any number of other state and federal laws may also come into play. These range from occupational health and safety laws to other federal funding statutes. For example, where a state or locality uses funds made available under other laws to operate components of the school-to-work system -- such as the Workforce Investment Act (WIA) — the system must comply with the requirements of those laws, as well as with civil rights protections and the specific laws discussed in this publication. Issues may also arise under state worker compensation laws when students engage in paid work-based learning activities, or under the federal Fair Labor Standards Act (FLSA). Implications under the FLSA when students with disabilities participate in work-based learning are addressed in chapter 3 as an equity concern. The array of other laws of potential concern is beyond the scope of this publication.

The reader should note that this publication does not describe or address the Workforce Investment Act of 1998. At the time of enactment of the WIA, this publication was in its final stages of development and beyond consideration of integrating WIA into the text. Readers should consult with their appropriate state agency for further information regarding WIA.

Notes to Introduction

1. This document was finalized prior to the U.S. Department of Education's March 12, 1999, release of revised regulations implementing the Individuals with Disabilities Education Act Amendments of 1997. All of the IDEA regulations cited herein are included in the March 1999 regulations as well, albeit with slightly different numbering in some cases. Readers should check the Federal Register of March 12, 1999, or contact the appropriate state agency, the U.S. Department of Education, or their public library for further information.

Purpose of Chapter —
To provide an understanding of the key federal laws governing quality and equity for youth with disabilities in school-to-work systems.

Chapter 1

Quality and Equity

Overview of Relevant Laws

Policymakers, administrators, and educators involved with school-to-work systems must understand their responsibilities towards students under a variety of state and federal laws. Five federal laws are particularly important for understanding, and making real, the rights of youth with disabilities to equitable participation in high quality school to-work systems. These laws spelling out what policymakers, administrators, and educators need to know may be grouped into two categories. The first category, career preparation laws, includes the School-to-Work Opportunities Act of 1994 and the Carl D. Perkins Vocational and Technical Education Act of 1998. The second category includes civil rights laws, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, and the Individuals with Disabilities Education Act, as amended in 1997.

Career Preparation Laws

The School-to-Work Act of 1994 and the Carl D. Perkins Vocational and Technical Education Act of 1998 emphasize the design of high quality learning opportunities for all students, including youth with disabilities. The School-to-Work Opportunities Act establishes the key components necessary for high quality systems, and requires that their design reflect the needs of all students. The Carl D. Perkins Act also reflects this dual emphasis on quality and full participation by youth with diverse backgrounds, educational needs, and learning styles. A related law discussed briefly below, the National Skills Standards Act, has important additional implications for equity and quality. The National Skills Standards Act, designed to stimulate the development of voluntary standards for work in certain industries, will be of interest to those involved in planning for the skills certificates to be earned by youth in school-to-work systems. A second related law, the Fair Labor Standards Act, is discussed in chapter 3 in the context of equity for students with disabilities in work-based learning opportunities.

School-to-Work Opportunities Act of 1994

A. Purpose of the Act

School-to-work builds a system.

The School-to-Work Opportunities Act of 1994 (the "School-to-Work Act")[1] is designed to facilitate the creation of a universal, high quality school-to-work transition system. The act uses federal funds as venture capital to underwrite the initial costs of planning and establishing statewide systems that will be maintained with other resources. These systems are to provide all students with opportunities to participate in programs that integrate school- and work-based learning, vocational and academic education, and secondary and postsecondary education.

B. How it Operates

School-to-work builds upon existing programs and reforms.

The School-to-Work Act is distinct from other education reform initiatives because it does not create another separate program with federal mandates. Rather than reinventing the wheel, the law helps states and localities to build on and advance existing programs and reforms. In building on existing programs and reform efforts, school-to-work links existing program reform efforts with workforce development and economic development by engaging diverse stakeholders in designing and implementing an integrated system. School-to-work is also linked with the Goals 2000: Educate America Act, which provides a framework for state efforts to improve student academic achievement. Goals 2000 also establishes the National Skill Standards Board that is developing a system of voluntary occupational skill standards.

C. *Funding*

Noncompetitive funds go to states to design systems.

The School-to-Work Act channels funding to states and local partnerships to create school-to-work systems. All 50 states, the District of Columbia, and the territories have received noncompetitive school-to-work development grants, which were used to design statewide systems and to write state plans. One-time, five-year implementation grants are awarded through a competitive process when the states present a comprehensive school-to-work plan and demonstrate the capability to implement the plan. Currently, all states and the District of Columbia and Puerto Rico have received implementation grants.

D. *What the Act Provides*

School-to-work systems must include programs that meet seven broad criteria.

Under the act, school-to-work systems must be designed to provide all students with the opportunity to participate in programs that —

- *Integrate* school-based learning and work-based learning
- *Integrate* academic and occupational education
- *Include* and effectively *link* secondary and postsecondary education
- *Meet the same academic standards* set by the state for all students, prepare students for postsecondary education, and award skills certificates
- *Provide students with strong experience* in and understanding of all aspects of the industry students are preparing to enter, including —
  - planning
  - management
  - finances
  - technical and production skills
  - underlying principles of technology
  - labor and community issues
  - health and safety issues, and
  - environmental issues
- *Provide all students with equal access to* the full range of program components and related activities
- *Give students flexibility to develop new career goals* over time, to change career majors, and to transfer between education and training programs

E. *Who Is Covered*

All students are covered.

"All students" is defined as meaning "both male and female students from a broad range of backgrounds and circumstances, including disadvantaged students, students with diverse racial, ethnic, or cultural backgrounds, American Indians, Alaska Natives, Native Hawaiians, students with disabilities, students with limited-English proficiency, migrant children, school dropouts, and academically talented students."[2]

F. *Flow Through*

Funds flow through to the local level.

Most of the state implementation grant monies flow through to the local level. All of the funds going to the local level go to local partnerships — entities responsible for operating the programs that comprise the school-to-work system, and that consist of employers, public secondary and postsecondary educational institutions or agencies, educators, labor, and students. Two additional types of local grants have been available directly from the federal government: federal partnership grants for those in states not yet receiving implementation funds, and grants to local partnerships in high-poverty areas.

G. *Federal Responsibilities*

Federal responsibilities are carried out by the Secretaries of Education and of Labor, who jointly oversee the National School-to-Work Office. In addition to the approval of implementation grants, federal responsibilities include research and development; a program of experimental and demonstration projects; technical assistance; a system of performance measures for assessing state and local programs; and a national evaluation of funded programs.[3]

Carl D. Perkins Vocational and Technical Education Act

The Perkins Act is structured to leverage state and local funds.

The Carl D. Perkins Vocational and Technical Education Act (the Perkins Act) governs about a billion dollars in federal vocational education appropriations annually. Formerly known as the Carl D. Perkins Vocational and Applied Technology Education Act, the Perkins Act was reauthorized and amended in 1998.[4] Because much of the Perkins Act is written in terms of recipients' obligations throughout their vocational education programs, the act's mandates reach far beyond its funds, to leverage about nine times as much in state and local appropriations. Just about every school district and community college receives Perkins funds and is subject to Perkins requirements.

A. *Funding, Targeting, and Flow Through*

Funds are targeted at students who live in poverty and students with disabilities in secondary and postsecondary schools.

At the secondary education level, Perkins funds flow through states to local education agencies (LEAs), and through them to vocational programs. The funding formula targets funds to LEAs with high poverty rates and high proportions of students with disabilities. There are three types of secondary vocational settings: (1) comprehensive high schools that have some students participating in vocational education, while others are not; (2) vocational high schools where all students participate in a vocational program; and (3) regional/area vocational schools serving a group of suburban or rural districts, each of which contributes some or all of its Perkins and other vocational funding to the school. Postsecondary vocational education consists largely of public community colleges and private, for-profit ("proprietary") schools. Perkins funds — and obligations — go to community colleges and vocational-technical institutes.

B. *Purpose of the Act*

Perkins requires vocational and academic education to be integrated.

The Perkins Act was rewritten in 1990 to move away from an outmoded industrial model of vocational education, which sought to tailor training to the specific requirements projected for one narrowly defined job slot. To address Congressional concerns about narrow skill training and diluted academics, while retaining the potential of vocational education to make learning active, practical, and exploratory, the 1990 Perkins Act emphasized two related approaches —

1. Integrating vocational and academic education so that students gain strong basic and advanced academic skills in a vocational setting, and
2. Providing students with strong experience in and understanding of all aspects of the industry they are preparing to enter, including planning, management, finance, technical and production skills, underlying principles of technology, labor, community, and health, safety, and environmental issues

Students must have strong experience in and understanding of all aspects of an industry.

Academic education cannot be watered down.

The 1998 Perkins Act retains these emphases. It also makes explicit the requirement that students in vocational education programs be taught the same challenging academic proficiencies that all other students are taught.[5] These quality criteria, together with a strong equity focus, shape state and local requirements.

C. *Equity and Special Populations*

Those students facing special challenges benefit.

The equity provisions of the Perkins Act address rights and protections for students who are members of "special populations." "Special populations" include individuals with disabilities; individuals from economically disadvantaged families, including foster children; individuals preparing for nontraditional training and employment; single parents, including single pregnant women; displaced homemakers; and individuals with other barriers to educational achievement, including individuals with limited-English proficiency.[6]

Community colleges and LEAs must take special care to ensure these populations have equal access to their programs.

Community colleges and LEAs receiving Perkins funds must provide special-population students with equal access to Perkins-assisted activities.[7] Prior civil rights rulings make it clear that "access" must include the services necessary for real participation.[8] Moreover, programs may not discriminate on the basis of special-population status.[9] Beyond provision of equal access and nondiscrimination, Perkins recipients have explicit obligations to develop program strategies for special populations; to provide programs that prepare special-population students for further learning and high-skill, high-wage careers, and are designed to enable them to meet the same levels of performance set for all students; and to identify barriers that result in lowering rates of access to or lowering success in vocational programs for special populations, and adopt strategies for overcoming them.[10] Equity concerns also pervade the act's program evaluation and improvement schemes, which are discussed below in chapter 8.

D. Quality and Equity Criteria

In sum, state and local vocational education planning, program design, and evaluation must focus on four quality and equity criteria —

1. Integrating vocational and academic education through a coherent sequence of courses, so that while in a vocational setting, students gain strong basic and advanced academic skills, including skills in mathematics, reading, writing, science, and social studies;[11]
2. Providing students with strong understanding of and experience in all aspects of the industry they are preparing to enter,[12] which should include planning, management, finance, technical and production skills, underlying principles of technology, labor, community, and health, safety, and environmental issues;
3. Ensuring that students are taught to high standards, including teaching the same challenging academic proficiencies all other students are taught;[13] and
4. Providing for equitable and successful participation of special population students, through equal access, nondiscrimination, and the individual services they need to succeed and meet the same standards applicable to all students.

A Related Law: National Skills Standards Act of 1994

The National Skills Standards Board is to develop voluntary standards.

The National Skills Standards Act of 1994 is incorporated as Title V of Goals 2000.[14] This act establishes a National Skills Standards Board which is to oversee: (a) the development of voluntary national skills standards, and (b) a system for certification of attainment of skill standards.[15] The board is responsible for identifying broad clusters of major occupations and facilitating the establishment of voluntary partnerships to develop skill standards for each cluster.

The board has identified 16 industry clusters for the purpose of establishing voluntary partnerships.[16] Recently, the board awarded $460,000 to three separate industry clusters for the development of comprehensive skill standards for the industries.[17]

Standards cannot be discriminatory.

Importantly, the National Skills Standards Act includes explicit criteria to guard against development and use of discriminatory standards or assessments. Skill standards may not be discriminatory with respect to race, color, gender, age, religion, ethnicity, disability, or national origin, consistent with federal civil rights laws.

As noted in chapter 2, career majors in school-to-work systems lead to the award of skills certificates. These certificates may be based upon skill standards developed at either the national or the state level. These standards represent one area of vocational learning in school-to-work systems.

Civil Rights Laws

Civil rights laws prohibit discrimination in all public education programs.

The School-to-Work, Perkins, and related laws are intended to create high quality systems, addressing in part the rights of youth with disabilities to fully participate in them. Two federal civil rights laws — Section 504 of the Rehabilitation Act[18] and the Americans with Disabilities Act[19] — further define the rights of youth with disabilities to full participation in these high quality systems and the programs that comprise them. Both prohibit disability-based discrimination in all aspects of public education programs. School-to-work systems must comply with these laws as well with the School-to-Work and Perkins Acts.

IDEA gives students with disabilities legal rights to high-quality educational services.

A third civil rights law, the Individuals with Disabilities Education Act (IDEA),[20] provides powerful tools for implementing the full-participation rights arising from the School-to-Work and Perkins Acts, Section 504, and the Americans with Disabilities Act. The individualized services and planning IDEA requires are ideal mechanisms for addressing the needs of youth who choose to participate in school-to-work systems. In a complementary fashion, programs which operate under the auspices of school-to-work systems may be used to implement students' rights under IDEA to high quality academics and "transition services," including career development education.

Section 504 and Antidiscrimination Principles

Section 504 prohibits discrimination on the basis of disability. Related laws ban discrimination on other bases.

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of disability in federally funded programs. This section was modeled on Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972. Title VI prohibits programs receiving federal funds from discriminating against students on the basis of race or national origin; Title IX does so on the basis of gender. Section 504, Title VI, and Title IX all apply to school-to-work systems and programs. Students who are limited-English proficient are also protected by the Equal Educational Opportunities Act of 1974, which requires educational agencies to take action to overcome language barriers that impede equal participation by students in instructional programs.

A. Understanding §504 Requirements

Four applicable legal sources of §504 requirements are listed.

In order to understand §504 requirements, school-to-work policymakers, administrators, and educators need to attend to four sources of §504 obligations —

- The §504 statute itself
- The U.S. Department of Education/Office for Civil Rights regulations implementing §504[21]
- The U.S. Department of Labor/Office for Civil Rights regulations implementing §504[22]
- The U.S. Department of Education/Office for Civil Rights "Guidelines for Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Sex and Handicap in Vocational Education Programs" ("OCR Guidelines")[23]

B. Scope of §504 Statute

Federal funding requires a policy of nondiscrimination.

The §504 statute itself states —

> "[n]o otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefit of, or be subject to discrimination under any program or activity receiving federal financial assistance. . . ."[24]

As virtually all state educational agencies, local school districts, public schools, and vocational schools receive federal funds, virtually all are required to comply with §504. So, too, are most postsecondary schools, such as technical institutes, junior colleges, community colleges, and four-year colleges. Local partnerships receiving implementation grants under the School-to-Work Act (or other federal funds) are also subject to §504.

C. Who is Protected from Discrimination Under §504

Definition of disability: Impairments are physical or mental and substantially limit major life activity.

Under §504, an "individual with a disability" is anyone who has a physical or mental impairment that substantially limits a major life activity.[25] Major life activities include caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.[26] For purposes of school-to-work systems and high school-level vocational education programs, a youth with a disability is "otherwise qualified" under §504 — and so protected against discrimination — if nondisabled youth of his or her age may take part, or if state law or the federal Individuals with Disabilities Education Act entitles youth of that age to public education.[27]

D. Section 504 Regulations Help Define Discrimination

Because the School-to-Work Act is jointly administered by the U.S. Departments of Education and Labor, school-to-work systems must comply with the §504 regulations of both agencies. In addition, receipt of Perkins Act funds, or any other funds from the Department of Education, independently triggers the obligation to comply with the Department of Education's §504 regulations.

The §504 regulations provide further detail about what constitutes unlawful disability-based discrimination. They also set out affirmative steps that education agencies and programs must take to ensure that youth with disabilities receive full educational opportunity.

E. Section §504 Regulations and Prohibited Practices

The Department of Education and Department of Labor §504 regulations include identical, extensive lists of prohibited discriminatory practices. These prohibitions are designed to ensure that youth with disabilities have an equal opportunity to gain the same benefits, obtain the same results, and reach the same level of achievement as their nondisabled peers. For example, school-to-work systems, partnerships, and programs (and any other programs that receive or benefit from federal funds) may not —

Some practices that discriminate.

- Deny a youth with a disability the opportunity to participate in and benefit from programs
- Provide youth with disabilities the opportunities to participate and benefit that are unequal to those offered their peers
- Provide youth with disabilities with programs, benefits, or services that are not as effective as those provided to their peers

- Provide youth with disabilities with lower-quality programs than those provided their peers
- Provide different or separate programs to youth with disabilities, unless this is necessary in order to deliver services that are as effective as what other youth receive[28]

F. *Section 504 Regulations and Affirmative Obligations*

Required affirmative steps are individual needs assessments and responsive services and supports.

The Department of Education §504 regulations also require schools to evaluate the educational needs of youth with disabilities and to provide special education supports, related services, and reasonable accommodations to students who need them.[29] Schools must take these steps for all students who have disabilities within the meaning of §504, even if they are not protected by the Individuals with Disabilities Education Act.[30]

G. *OCR Guidelines for Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Sex, and Handicap in Vocational Education Programs*

For further details check the OCR guidelines.

The U.S. Department of Education, Office for Civil Rights Guidelines, provides further details for compliance with §504 (as well as Title VI and Title IX). The guidelines apply to all recipients of federal funds that offer or administer programs of vocational education or training, including state educational agencies (and other public agencies), local education agencies or school districts, high schools, secondary-level vocational schools, postsecondary schools and programs, and local partnerships implementing programs under the School-to-Work Act.

OCR guidelines address a history of discrimination in vocational programs.

OCR issued the guidelines in 1979 after discovering a pattern of civil rights violations during compliance reviews of vocational education programs conducted from 1973 to 1978. In regard to students with disabilities, OCR found that eligibility requirements, such as admissions tests, often denied students vocational education opportunities on the basis of disability; students often were impermissibly assigned to separate programs; students were denied equal opportunities as a result of inaccessible facilities and poor evaluation procedures; and vocational education administrators often failed to protect students against discrimination by participating employers.[31]

The guidelines were explicitly intended to end these abuses.[32] They address a wide range of issues, including —

These are examples of major issues addressed by the OCR guidelines.

- The responsibility of state agencies to prevent, identify, and remedy discrimination by the local programs to which they give federal funds
- Equitable distribution of federal, state, and local funds
- Recruitment efforts and admission criteria
- Accessibility of buildings and equipment
- Provision of related aids and services
- Discrimination by cooperating employers
- Practices that disproportionately impact students on the basis of disability, race, or gender

Specific provisions of the guidelines are discussed below in subsequent chapters.

The Americans With Disabilities Act

A. History and Application

ADA prohibits public agency discrimination regardless of receiving federal funds.

The Americans with Disabilities Act (ADA) was passed by Congress in 1990. The ADA is divided into five parts or titles. Most relevant to the planning and implementation of school-to-work systems is Title II, which prohibits discrimination by public entities regardless of whether they receive federal funds.[33]

Public entity is defined.

Under the ADA, a "public entity" includes any state or local government, as well as any department, agency, or any other unit of state or local government.[34] The statute thus covers state education agencies; school districts; public elementary and secondary schools; public technical schools, community colleges, four-year colleges and universities;[35] and any other government agency or unit involved in school-to-work systems, school-to-work programs, School-to-Work Act partnerships, or other vocational education programs.

Qualified individuals cannot be excluded from participation or discriminated against in other ways.

Title II of the ADA protects only "qualified" individuals from discrimination, stating that —

> "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity."[36]

ADA and §504 use parallel definitions of disability.

The ADA definition of an "individual with a disability" parallels the §504 definition. It includes anyone who has "a physical or mental impairment that substantially limits one or more of the major life activities of such individual," has "a record of such an impairment," or is "being regarded as having such an impairment."[37]

Qualified individuals are defined.

A "qualified" individual with a disability under Title II of the ADA is someone who —

> "*with or without* reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity."[38]

Reasonable modifications are required.

Public entities thus must make "reasonable modifications," remove "barriers," and provide "auxiliary aids and services" as needed to enable an individual to meet "essential eligibility requirements," and so become a "qualified" individual with a disability. For further discussion of "essential" eligibility requirements, see chapter 5.

B. Title II ADA Regulations Parallel and Supplement §504 Regulations

Regulations provide details of prohibited discriminatory practices.

As is the case with §504, the ADA statute is implemented by regulations that provide further detail about what constitutes unlawful discrimination. The Title II ADA regulations were modeled on the §504 regulations, and prohibit all of the discriminatory practices made illegal under §504.[39]

The ADA regulations also make explicit some obligations that are implicit in the older §504 regulations. For example, the ADA regulations state that public entities must make reasonable changes in their policies, practices, and procedures when necessary to avoid disability discrimination (unless the changes would "fundamentally alter" the nature of the program in question), and may not use eligibility criteria that screen out or tend to screen out an individual with a disability, or individuals with a particular kind of disability, from full and equal participation in programs, unless the criteria are necessary to the program.[40]

Policies, practices, and procedures must be changed to avoid discrimination.

C. *The ADA and Employment Discrimination*

A separate title of the ADA, Title I, addresses employment discrimination. Title I applies to private employers, as well as state and local government entities, in their capacity as employers. It also covers employment agencies, labor organizations, and joint labor management committees. Excluded are certain small employers, private membership clubs, the United States, and corporations owned by the U.S. government or an Indian tribe.[41]

Employers, employment agencies, and others are covered by Title I ADA.

Title I makes it illegal to "discriminate against a qualified individual with a disability because of the disability . . . in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment."[42] A "qualified" individual with a disability for purposes of Title I is someone who, "with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires."[43]

Who is protected against employment discrimination?

The particular provisions of Title I, along with regulations of the Equal Employment Opportunity Commission, provide details as to what does and does not constitute illegal employment discrimination under the ADA.

The Individuals With Disabilities Education Act

Key Provisions

The School-to-Work Act, Perkins, §504, and the ADA provide only sketchy guidance as to how to design the support services, modifications, and accommodations that individual students need for meaningful participation. The Individuals with Disabilities Education Act (IDEA), however, provides for individualized planning and service design. IDEA provisions regarding evaluations, Individualized Educational Programs, and transition planning and services provide powerful tools for accomplishing what these other laws require.

IDEA provides for individualized planning and service design.

A. *How it Operates*

IDEA provides federal aid to assist state and local education agencies in meeting the needs of children and youth with disabilities. In return, states and local school systems must comply with the detailed substantive and procedural requirements set forth in the statute and the regulations implementing it.

IDEA provides federal funds for children and youth with disabilities.

B. Who is Covered

Unlike §504 and the ADA, which protect any student with *any* "physical or mental impairment" that "substantially limits a major life activity," IDEA applies only to students who —

- Have one of the disabilities listed in the statute, and
- Need special education as a result

These disabilities are covered by IDEA.

IDEA disabilities include: mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, and specific learning disabilities.[44]

C. Right to a Free Appropriate Public Education, Including Transition Planning and Services

IDEA-eligible students have the right to a free appropriate education.

All IDEA-eligible students are entitled to a free appropriate public education (FAPE) consisting of an appropriate elementary or secondary education that meets state standards, along with necessary "special education," "related services," and "transition services."[45]

1. *Special education*

Special education is defined.

IDEA defines "special education" as "specially designed instruction . . . to meet the unique needs of a child with a disability," including instruction conducted in the classroom and in other settings.[46] "Specially designed instruction" means adapting the content, methodology, or delivery of instruction to —

- Address the child's unique disability-related needs
- Enable the child to meet the standards embedded in the regular education curriculum adopted for all students

2. *Related services*

Examples of related services are listed.

"Related services" are any developmental, corrective, and other support services that a child may need to benefit from his or her education.[47] Examples include transportation, rehabilitation counseling, physical and occupational therapy, speech-language pathology and audiology services, recreation, counseling, social work services, psychological services, orientation and mobility services, health-related services, and assistive technology.

3. *Transition services*

Transition services are required to help move from school to postschool activities.

As students approach high school age, IDEA calls for transition planning and services. Transition services are a coordinated set of activities that promote movement from school to postschool activities, such as (among other things) employment, postsecondary education, or vocational training. Requirements regarding transition services are discussed in further detail later in this chapter.

D. Special Education is Not a Place

Special education is instruction and services, not a place. Students will participate in regular classes.

Under these definitions, "special education" is a package of instructional techniques and services. It is not a place. Once instruction for an individual child has been tailored as required to address his or her needs it may (depending upon the child's needs) be provided in a variety of settings — including a "regular" classroom. IDEA contains a presumption that students will fully participate in the "general," meaning regular, curriculum[49] and be educated in regular classes, supported by appropriate services.[49]

This includes the opportunity to attend classes with their nondisabled peers to the maximum extent feasible in light of their individual needs.[50] The U.S. Department of Education §504 regulations include an identical requirement.[51] Schools must provide the supplementary aids and services students need for successful learning in integrated classes. Examples of such aids and services include —

These are examples of aids and services to promote learning in regular classes.

- Assistance of an itinerant teacher with special education training
- A classroom aide
- Use of computers or other assistive technology devices
- Modification of the regular education curriculum
- Consultation between the regular education teacher and special education personnel
- Special education training for the regular education teacher
- Provision of some special education and related services within the regular education classroom
- Any other available aids or services appropriate to the child's particular disabilities

Exclusion is allowed only if a child cannot learn in a regular class even with these services.[52]

E. Individualized Educational Programs

Educational evaluations must be done at least every three years.

IDEA contains detailed requirements for planning the education of individual students. Each student must be provided a comprehensive evaluation of his or her educational needs at least once every three years.[53] IDEA evaluations and evaluation requirements, and the role they may play in ensuring high quality, equitable learning for school-to-work participants with disabilities, are discussed in detail in chapter 7.

Drawing upon evaluation results and other relevant information, school personnel working in conjunction with parents must each year develop an Individualized Educational Program (IEP) for the student.[54]

The IEP components most relevant to school-to-work planning.

Most relevant to planning for equitable participation and high quality outcomes in school-to-work programs, the IEP —

- Describes the student's present levels of educational performance, including how his or her disability affects learning to standards in the regular curriculum
- Sets annual goals and short-term objectives related to the student's achievement in the regular curriculum, and to other disability-related educational needs
- Describes the special education, related services, and supplementary aids and services to be provided to the student (or on his or her behalf) to allow the student to meet the annual goals (including achievement in the regular curriculum) and to enable the student to learn effectively in regular education classes
- Includes a statement of the student's need for transition services, and provides for meeting those needs
- Explains how the student will be assessed
- Addresses the student's communication needs, including the needs of students with hearing impairments
- Addresses the language needs of students with limited-English proficiency
- Includes positive behavioral strategies and supports for students whose disabilities involve behavior that impedes learning
- Describes the program modifications and/or supports for school personnel to be provided
- Explains the extent, if any, to which the student will not fully participate in the regular curriculum
- Justifies the extent, if any, to which the student will not attend classes with nondisabled peers[55]

F. Transition Planning

Planning begins by age 14. IEPs must include transition service needs. When the student turns 16, or earlier, all needed transition services must be included.

Planning to prepare youth for the transition to adult life begins by age 14. From this age on, the IEP must include a statement of the student's "transition service needs," focused on his or her course of study.[56] When the student turns 16, and earlier if appropriate in light of the student's needs, IEPs must include the full range of needed "transition services."[57] At any age, transition planning and services must ensure that students continue in the regular curriculum aligned with state content standards and are not tracked into courses of study that limit their options for postsecondary education.

Under IDEA, "transition services" means a coordinated set of activities for a student that promotes movement from school to postschool activities, including any of the following —

- Employment
- Postsecondary education
- Vocational training
- Continuing and adult education
- Adult services
- Independent living
- Community participation[58]

Transition services must be based upon the individual student's preferences, interests, and needs, and include —

- Instruction
- Related services
- Community experiences
- Development of employment and other postschool adult living objectives
- Acquisition of daily living skills and functional vocational evaluation when appropriate[59]

The school system is responsible for ensuring that each youth receives all needed transition services. However, as discussed below, particular services might be provided by other agencies, such as vocational rehabilitation agencies. The IEP must specify the role such outside entities will play. If an outside agency fails to provide the transition services for which it is responsible in the IEP, the school system must reconvene the youth's IEP team and devise alternative ways to meet his or her transition objectives.[60]

The school is responsible for ensuring transition services, including those from outside agencies.

G. *Parent, Student, and Agency Participation in Transition Planning*

IDEA always requires schools to notify parents in advance of IEP meetings and to make every effort to ensure their participation.[61] Students also have the right to attend their IEP meetings whenever appropriate.[62] Parents and schools may, under the law, always invite outside service providers and others with knowledge or expertise about the student to participate in meetings.[63]

Who participates in transition planning?

Recognizing the unique issues and concerns at stake in transition planning, IDEA requires additional measures when transition services are to be discussed —

1. *Parent notification*

   Whenever transition services are to be discussed, the written notice ordinarily provided parents prior to an IEP meeting must also explain that transition services will be considered.[64] The notice must also inform the parent that the school will invite the student to attend and identify any other agency that will be invited to send a representative to the meeting.[65] Receipt of such notice gives parents an opportunity to think about future goals, plans, and services for their child, as well as to ask that additional or alternate agencies be included in the meeting.

   Parents need to be told who will attend.

2. *Student participation*

   Schools *must* invite the student to attend any meeting at which transition services are to be discussed and to participate in the discussion of his or her future goals and plans.[66] This mandate, reflecting the importance of self-determination and empowerment, is a strong one: if the student does not attend, the school must take other steps to ensure that the student's preferences and interests are considered.[67]

   Students are part of the process.

Outside agencies are sometimes necessary.

3. Agency participation

In light of the broad scope of required transition services under IDEA, the act anticipates that outside agencies sometimes will participate with schools in providing them.[68] Towards this end, the law requires that meetings to discuss transition include a representative of any other agency that is likely to be responsible for providing or paying for a transition service.[69] Such agencies might include those dealing with vocational rehabilitation; employment and training; housing; specialized services for youth and adults with developmental disabilities, mental health needs, or other disabilities; and other providers relevant to the individual needs and preferences of the student.

The school remains ultimately responsible.

If an agency invited to send a representative does not do so, the school system must take other steps to obtain the participation of that agency in planning transition services.[70] Once such participation is secured, as noted above, the student's IEP must reflect the responsibility of each participating agency for providing particular transition services, including the school's.[71] In the event that an outside participating agency fails to provide agreed-upon services, the school must act as soon as possible to hold a new meeting and develop alternative strategies for meeting the student's transition needs.[72]

H. Dispute Resolution

Disputes must be resolved.

IDEA includes detailed procedures for resolving disputes between parents and schools regarding the education and services, including transition services, to be provided a student with disabilities. These include voluntary mediation, due process hearings, and court appeals.[73]

Notes to Chapter 1

1. 20 U.S.C. §6101, *et seq.*
2. 20 U.S.C. §6103(2).
3. See Title IV, 20 U.S.C. §§6191-6196.
4. Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998, Pub. L. No. 105-332, 112 Stat. 3076 (October 31, 1998) (hereinafter Pub. L. 105-332).
5. Pub. L. 105-332, sec. 1, §122(c)(5)(B), 20 U.S.C. §2342(c)(5)(B), 112 Stat. 3076, 3104 (to be codified at 20 U.S.C. §2354(b)(3)(C)).
6. Pub. L. 105-332, sec. 1, §3(23), 112 Stat. at 3080-81 (to be codified at 20 U.S.C. §2302(23)). "Nontraditional training and employment" means occupations in which individuals from one gender comprise less than 25% of those working in that field. Pub. L. 105-332, sec. 1, §3(17), 112 Stat. at 3080 (to be codified at 20 U.S.C. §2302(17)).
7. Pub. L. 105-332, sec. 1, §122(c)(8)(A), 112 Stat. at 3104 (to be codified at 20 U.S.C. §2342(c)(8)(A).
8. See, for example, *Lau v. Nichols*, 414 U.S. 563 (1974).
9. Pub. L. 105-332, sec. 1, §§122(c)(8)(B), 134(b)(8), 112 Stat. at 3104, 3116 (to be codified at 20 U.S.C. §§2342(c)(8)(B), 2354(b)(8)).
10. Pub. L. 105-332, sec. 1, §§122(c)(7), (8) and 134(b)(7), 112 Stat. at 3104, 3115 (to be codified at 20 U.S.C. §§2342(c)(7), (8) and §2354(b)(7)).
11. *Id.* at §§122(c)(5)(A), 124(b)(4), 134(b)(3)(A), 135(b)(1), 112 Stat. at 3104, 3107, 3114, 3115 (to be codified at 20 U.S.C. §§2342(c)(5)(A), 2344(b)(4), 2354(b)(3)(A), and 2355(b)(1)).
12. *Id.* at §§3(2), 122(c)(5), 134(b)(3)(B), 135(b)(2), 112 Stat. at 3077, 3104, 3114, 3115 (to be codified at 20 U.S.C. §§2302(2), 2342(c)(5), 2354(b)(3)(B), and 2355(b)(2)).
13. *Id.* at §§122(c)(5)(B), 134(b)(3)(C), 112 Stat. at 3104, 3114 (to be codified at 20 U.S.C. §§2342(c)(5)(B), 2354(b)(3)(C)).
14. 20 U.S.C. §5931 *et seq.*
15. 20 U.S.C. §5932.
16. The 16 industry clusters are as follows: (1) manufacturing, installation, and repair; (2) retail trade, wholesale trade, real estate, and personal services; (3) business and administrative services; (4) communications, arts, and entertainment; (5) restaurants, hospitality, and tourism; (6) education and training; (7) finance and insurance; (8) construction; (9) agriculture, forestry, and fishing; (10) mining; (11) utilities and environmental and waste management; (12) transportation; (13) health and human services; (14) public administration, legal, and protective services; (15) scientific and technical services; and (16) international.
17. The grants were awarded to the following three industry clusters: (1) communications, arts, and entertainment; (2) restaurants, hospitality, and tourism; and (3) education and training.
18. 29 U.S.C. §794.
19. 42 U.S.C. §12101 *et seq.*
20. 20 U.S.C. §1400 *et seq.*
21. 34 C.F.R. part 104.

22. 29 C.F.R. part 32.
23. 34 C.F.R. part 100, Appendix B.
24. 29 U.S.C. §794(a).
25. 29 U.S.C. §705(20)(B), as amended by Pub. L. 105-220 §403, 112 Stat. 936, 1104 (August 7, 1998 (formerly 29 U.S.C. §706(8)(b)); 34 C.F.R. §104.3(j)(1). Someone who has a record of such an impairment or who is regarded as having such an impairment is also considered to be a protected individual with a disability under §504. 29 U.S.C. §705(20)(B), as amended. The term "physical or mental impairment" means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the neurological, musculoskeletal, sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin or endocrine systems, as well as any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. 34 C.F.R. §104.3(j)(2)(i).
26. 34 C.F.R. §104.3(j)(2)(ii).
27. 34 C.F.R. §104.3(k)(2).
28. 34 C.F.R. §104.4(b)(1); 29 C.F.R. §32.4(b)(1).
29. See 34 C.F.R. §§104.33-104.35.
30. As discussed below, the IDEA definition of a protected student with a disability is narrower than the §504 definition. Thus some students who are not eligible for services under IDEA will nonetheless be protected under §504.
31. 44 Fed. Reg. 17163 (March 21, 1979).
32. *Id.*
33. The other titles of the ADA address employment (Title I), public accommodations and services operated by private entities (Title III), telecommunications (Title IV), and miscellaneous other issues (Title V).
34. 42 U.S.C. §12131(1).
35. Private postsecondary institutions are covered by Title III of the ADA, 42 U.S.C. §12181 *et seq.*, which prohibits discrimination in privately owned places of "public accommodation," including private schools. The specifics of Title III differ from Title II, and are beyond the scope of this guide. However, as noted above, virtually all private postsecondary institutions are covered by §504, if only because their students receive federally funded student financial assistance. Section 504 requirements for public and private postsecondary schools are identical.
36. 42 U.S.C. §12132.
37. 42 U.S.C. §12102(2).
38. 42 U.S.C. §12131(2) (emphasis added).
39. See 28 C.F.R. §35.130(b).
40. 28 C.F.R. §35.130(b)(7), (8).
41. 42 U.S.C. §12111(5).
42. 42 U.S.C. §12112(a).
43. 42 U.S.C. §12111(8).

44. 20 U.S.C. §1401(3)(A)(i). Depending upon state law, children aged three through nine who are experiencing developmental delays may also be entitled to services under IDEA. See 20 U.S.C. §1401(3)(A)(ii).
45. 20 U.S.C. §§1401(a)(8), 1412(a)(1), 1414(d)(1)(A)(vii).
46. 20 U.S.C. §1401(25).
47. 20 U.S.C. §1401(22).
48. IDEA uses the term "general curriculum" to refer to the curriculum embodying the academic competencies and skills that their nondisabled peers are taught as regular, as opposed to special, education students. The term as used in IDEA is synonymous with "regular curriculum" and does not refer to the general curriculum (or general track) in its historical sense as a low track within regular education. To avoid confusion in discussing IDEA requirements, this book will use the term "regular curriculum."
49. 20 U.S.C. §§1412(a)(5), (17, 1414(b)(2), (c)(1)(B)(iv), (d)(1)(A)(i)-(iv), (d)(1)(B)(ii), (iv), (d)(4).
50. 20 U.S.C. §1412(a)(5).
51. 34 C.F.R. §104.34(a).
52. 20 U.S.C. §1412(a)(5); 34 C.F.R. §104.34(a).
53. See 20 U.S.C. §1414(a)-(c).
54. See 20 U.S.C. §§1401(8)(D), 1414(d)(2), (1)(B)(i), (4), §1414(f).
55. 20 U.S.C. §1414(d)(1)(A).
56. 20 U.S.C. §1414(d)(1)(A)(vii)(I). The mandate to begin transition planning for all youth with disabilities by no later than age 14 was added to IDEA in 1997. Previously, the law allowed schools to delay transition planning for many students until age 16. In making this change, Congress explained that the purpose of the new provision was to supplement the existing requirements for 16-year-olds, by focusing attention at an earlier age on how the student's educational program can be planned to make for a successful transition to his or her goals for life after high school. H. Rep. 105-95 at 101 (1997).
57. 20 U.S.C. §1414(d)(1)(A)(vii).
58. 20 U.S.C. §1401(30).
59. *Id.*
60. 20 U.S.C. §1414(d)(1)(A)(vii)(II); 34 C.F.R. §300.347 (1997).
61. 34 C.F.R. §300.345 (1997).
62. 20 U.S.C. §1414(d)(1)(B)(vii).
63. 20 U.S.C. §1414(d)(1)(B)(vi).
64. 34 C.F.R. §300.345(b)(2) (1997).
65. *Id.*
66. 34 C.F.R. §300.344(c)(1)(i) (1997).
67. 34 C.F.R. §300.344(c)(2) (1997).
68. See 20 U.S.C. §1414(d)(1)(A)(vii)(II) (regarding interagency linkages).
69. 34 C.F.R. §300.344(c)(1)(ii) (1997).
70. 34 C.F.R. §300.344(c)(3) (1997).
71. 20 U.S.C. §1414(d)(1)(A)(vii)(II).
72. 34 C.F.R. §300.347(a) (1997).
73. See 20 U.S.C. §1415.

Chapter 2

The "Quality" in Quality Programs

Access to What?

Purpose of Chapter —

To examine the key elements of programmatic quality in school-to-work systems, their historical context, and their relationship to other federal education reform initiatives. Issues of access and meeting special needs in serving students with disabilities cannot be divorced from the question of the quality of the programs. Thus the quality criteria in this chapter are critical for the rest of the guide. They enable us to determine whether students with disabilities are getting access to, and are successful in, educational settings with high quality components and to ensure that they are not tracked into inferior programs.

High quality programs prepare and empower students.

As noted in the introduction, *by "quality" we mean programs that prepare students for careers and are designed to meet the same high academic standards set by the state for all students. Quality programs integrate academic and occupational learning, provide strong understanding and experience in all aspects of an industry, develop higher order skills, and prepare students for postsecondary education. Quality programs also empower students to make career and life choices by giving them the flexibility and transferable skills they will need to cope with labor market changes and technological change, and to develop new education and career goals over time.*

The Issue of Quality — Historical Context of the School-to-Work Opportunities Act

School-to-work is designed to remedy perceived deficiencies of vocational education.

The School-to-Work Act incorporates standards designed to ensure that all students receive high quality programs. The quality standards were purposefully created to address historic problems associated with the traditional industrial model of vocational education, which often focused on providing narrow technical and production skills responsive to immediate employer demand for filling particular jobs. Frequently, it was assumed that students who enrolled or were channeled into this limited training model were academically inferior students without any need to develop problem solving or other higher order thinking skills.

Transforming Career Preparation, Transcending "Vocational Education"

The School-to-Work Act challenges the concept that vocational education is academically inferior.

The enactment of the School-to-Work Act, like the Perkins amendments before it, deliberately challenged the long-held concept of vocational education as academically inferior education for certain students. Many had recognized that these particular students were being prepared for low-skill, low-wage jobs and planned obsolescence. Rapid economic and technological changes made more people question the prevailing notion of vocational education. This conception of vocational education was based on the idea that certain students needed to be trained for specific jobs that called for specific skills. As long as those students learned the technical skills for these available jobs, there was little need to worry about academic skills.

Students were not prepared for a job market that was rapidly changing.

As the pace of technological change quickened, projections about job availability, necessary skills, and individual preferences became less and less accurate. The number of jobs that paid good wages to workers without postsecondary education shrank dramatically. As a result, trading away high-level academic preparation for specific job preparation made even less sense.

Discrimination limited educational and career choice.

Understandably, parents began to voice concerns about the way that traditional vocational education programs channeled students away from academics and into limited careers. Equally troubling, too many students had been placed into vocational education, or into particular occupational programs within vocational education, based on their income, race, gender, or disability rather than individual preferences and goals.

Consequently both the School-to-Work Opportunities Act of 1994 and the Perkins Act Amendments of 1990 mandated major reform. Congress built into each key elements that recognize (1) that demanding academic skills must be provided as an integral part of any preparation for careers, and (2) that all students must be provided full opportunity to attain the skills necessary to engage fully in postsecondary opportunities — while still drawing on the value in vocational education of practical activity as an educational context for exploring, thinking, and doing.

Perkins and School-to-Work Acts mandate demanding academic skills.

In Perkins, these elements were aimed at reforming vocational education and providing students in the vocational wing of the school with far more than narrow training for specific occupational tasks. Thus, the 1990 amendments focused on ensuring that vocational education programs integrate academic and vocational education so that students achieve both academic competencies — including strong development and use of problem-solving and basic and advanced academic skills, in the full range of academic subjects, in a technological setting — and broad vocational competencies — including strong experience in and understanding of all aspects of an industry. The 1998 amendments retain this emphasis.[1]

Both laws require academic/vocational integration and other reforms.

The School-to-Work Opportunities Act also responds to continuing concerns about changes in the workplace and the under-education of American youth. It includes a focus on high academic achievement, integrating academic and experiential learning, and exploring all aspects of an industry. These goals were taken to a more ambitious level, beyond the vocational wing of the school, to create a reform framework, coordinating other programs and enabling all youth to meet high standards, qualify for higher education, and navigate their own paths to productive careers. To help students integrate theory with real-world experience, one of the purposes of the act is "to utilize workplaces as active learning environments in the educational process."[2] This is a very different conception from using workplaces as narrow skill training for particular jobs.

School-to-work also focuses on coordinating high quality programs to help students gain productive careers.

Parents remain concerned that programs labeled "school-to-work" will in reality be old-style vocational education and will deprive their children of high-level academics and channel them into narrow occupational slots defined by others. The point of setting out the elements in the School-to-Work Opportunities Act and other laws designed to ensure high quality and open up broad educational and career options is not to tell parents that their concerns are unfounded. Local practices can often be far from what the law calls for, and these parental concerns, along with the laws as tools for parents to understand what is required, should be viewed as allies in the effort to make the reforms a reality.

Parents as allies in making reforms a reality.

Ending Low Expectations, Limited Opportunities, and Discrimination Against Students With Disabilities

The infusion of high expectations and strong academics into vocational education, and its transformation into career development education, come at an especially critical time for students with disabilities. These students were often excluded from even the low-quality vocational education programs of the past. And just as vocational education was often seen as a low track for students deemed academically inferior, "special education" has often meant placement in low-track programs, diluted curricula and little opportunity to develop higher order skills or prepare for higher education. Students frequently are channeled into poor quality programs because of discriminatory assumptions about disability; contrary to the civil rights laws, their education is guided by expectations set low simply because they have a disability .

This history prompted many of the provisions added to the Individuals with Disabilities Education Act by the IDEA Amendments of 1997.[3] As further discussed below and in chapter 7, the law as amended makes it clearer than ever that students with disabilities must be given meaningful opportunities to learn the bodies of knowledge and skills that all students are expected to master, and to attain the high academic standards set for all.

The school-to-work opportunities afforded youth with disabilities must be of high enough quality to allow them to do so. The convergence of the reforms mandated by the School-to-Work Act and the emphasis in the amended IDEA on full participation in the high quality curricula provided other students create a unique and potent opportunity to ensure high expectations, high quality, and good outcomes for students with disabilities.

The Framework for Quality in School-to-Work Systems

The three key components are school-based learning, work-based learning, and connecting activities.

The School-to-Work Act emphasizes high goals for student learning and post-secondary education, work, and training. These high goals are incorporated into the act through three key components that must be integrated with each other: school-based learning, work-based learning, and connecting activities.[4] These three components, and the elements that comprise each, provide a framework for the development of a school-to-work system that is designed to ensure that students receive high quality programs.

School-Based Learning

The core elements of school-based learning.

School-based learning incorporates the following core quality elements —

- Career awareness, exploration, and counseling that —
  - Help students identify their interests and goals
  - Help students to select a career major
  - Help students develop career options, including encouraging careers in nontraditional employment

- The opportunity to complete a career major that —
  - Includes a coherent sequence of courses or field of study that integrates academic and occupational learning and prepares a student for a first job and for employment in a broad occupational cluster or industry sector
  - Provides students, to the extent practicable, with strong experience in and understanding of all aspects of an industry
  - Typically includes at least two years of secondary education and at least one or two years of postsecondary education
  - Results in the award of a high school diploma or its equivalent, a certificate or diploma recognizing successful completion of the postsecondary component (if appropriate), and a skills certificate
- Programs designed to meet the same high academic standards established for all students by the state, including linkage to general education reform
- The integration of academic and vocational curricula and instruction, including instruction in all aspects of an industry
- Regularly scheduled evaluations and ongoing problem solving with students to —
  - Identify their academic strengths and weaknesses, academic progress, workplace knowledge, and goals
  - Identify the need for additional learning opportunities to master core academic and vocational skills
- Transition planning to facilitate entry into additional training or postsecondary education programs[5]

Work-Based Learning

Work-based learning incorporates the following core quality elements —

The core elements of work-based learning.

- Work experience (which can include school-sponsored student-run enterprises) coordinated with the school-based learning component and relevant to the student's career major
- Workplace mentoring by an individual who —
  - possesses the skills and knowledge to be mastered by the student
  - instructs the student, critiques student performance, and challenges the student to perform well
  - works in consultation with classroom teachers and the employer
- Instruction in general workplace competencies
- Experience in and understanding of all aspects of the industry[6]

Connecting Activities

Connecting activities[7] require the following elements to ensure high quality programs —

Elements of core connecting activities.

- Matching of students with work-based learning opportunities of employers
- School site mentors for each student who serve as liaisons between the student and employers, schools, educators, parents, and other community partners

- Technical assistance to employers and others in designing school-based learning components, work-based learning components, and counseling and case management services
- Technical assistance to employers and other parties in training teachers, workplace mentors, school site mentors, and counselors
- Provision of technical assistance to schools and employers to integrate school-based and work-based learning and to integrate academic and occupational learning into the program
- Encouragement of active participation by employers, in cooperation with local education officials, in implementing school-based and work-based learning components and connecting activities
- Post-program service coordination
- Evaluations of post-program outcomes

A Closer Look at Key Quality Elements: Academic and Vocational Integration, All Aspects of the Industry, Experiential Learning, and High Academic Standards

Four key elements are —

Academic and vocational integration

All aspects of the industry

Experiential learning

High academic standards

All of the above elements are important for school-to-work systems to transform traditional vocational educational programs into high quality career development education. In light of the history of vocational education and the particular concerns prompting its reform, however, four of these elements warrant particular examination here. Academic and vocational integration, all aspects of the industry, experiential learning, and high academic standards form the core of the School-to-Work Act's strategy for combating the problems of the past. They are also the act's primary safeguards against tracking students, including those with disabilities, into course(s) within the vocational curriculum that are diluted or less effective in providing them the instruction and skills they need to attain the standards set for others.

Because the School-to-Work Act is meant to pull together existing programs to create a coherent system, it is important to understand both the quality elements laid out within the school-to-work framework and the relationship of those quality elements to other federal education reform initiatives. The following discussion considers the act's mandates for academic and vocational integration, all aspects of the industry, experiential learning, and high academic standards in this light.

Integration of Academic and Vocational Education

The integration of academic and vocational education assists students in gaining advanced academic competencies by engaging them in applying academic ideas to the real world. This is crucial to ensuring that school-to-work programs do not serve as a lower track within schools. In order for integration to occur, academic and vocational teachers need to work together to develop and teach the curriculum.

Key elements of integration include —

- Encompassing all of the academic areas
- Including both basic and advanced skills in each of those academic areas so that all students are qualified to enter four-year colleges and do not lose that option
- Teaching academic knowledge and skills in an active vocational context
- Broadening the notion of "vocational," rather than trying to integrate academics into a narrowly conceived notion of vocational training (see discussion of "all aspects of the industry" below)

Elements of integration of academic and vocational education are listed.

In the School-to-Work Opportunities Act, academic-vocational integration is also related to the linking of school-based and work-based learning. The underlying concept is that all students should be integrating theory and experiential learning. Academic and vocational integration also requires that the integrated curriculum enables students to meet the high academic standards adopted for all students by the state.

Integrate school- and work-based learning.

All Aspects of the Industry

A. Meaning of the Requirement

High quality school-to-work systems provide all students with experience in and deep understanding of all aspects of an industry, rather than only narrow training for a single job. The School-to-Work Act defines this quality element as —

Experience in and understanding of all aspects of an industry are required.

> "experience in and understanding of all aspects of the industry the student is preparing to enter, including planning, management, finances, technical and production skills, underlying principles of technology, labor and community issues, and health, safety and environmental issues."[8]

Student experience in and understanding of all aspects of the industry is a required element of planning, programs, and personnel development under Perkins.[9] This idea of all aspects of the industry is also explicit in the general program requirements (in *both* the school-based learning and the work-based learning components), performance measures, and other requirements of the School-to-Work Act.

All aspects of the industry includes eight specific areas —

"All aspects" of an industry include eight specific areas.

1. *Planning* (for example, explores the various forms of ownership and the relationship of the industry to the economic, political, and social context)
2. *Management* (for example, addresses methods used to manage enterprises over time within the industry, as well as methods for expanding and diversifying workers' tasks and broadening worker involvement in decisions)
3. *Finance* (for example, examines ongoing accounting and financial decisions and methods for raising capital to start or expand enterprises)
4. *Technical and production skills* (for example, covers the specific production techniques and alternative methods for organizing the production work)
5. *Underlying principles of technology* (for example, provides an integrated study across curricula of the mathematical, scientific, social, and economic principles that underlie the technology)

6. *Labor issues* (for example, examines worker rights and responsibilities, labor unions and labor history, and methods for expanding workers' roles)
7. *Community issues* (for example, explores the impact of the enterprise and the industry on the community and the community's impact on and involvement with the enterprise)
8. *Health, safety, and environmental issues* (for example, examines the issues in relation to workers and the larger community)

In implementing all aspects of the industry, good school-to-work systems will define an "industry" broadly and provide students the opportunity to encounter all aspects of the industry in work-based learning that is connected to school-based learning

B. Rationale and Role

Teaching "all aspects" means opportunities cannot be low level and limited.

The "all aspects" mandate arose from the same concerns as the requirement that programs integrate vocational and academic education and similarly reflects Congress's judgement that students need a broad range of transferable skills to succeed in employment. In fact, teaching "all aspects" is essential to integrating academic and vocational education. If vocational skills are limited to a narrowly defined job task, it is almost impossible to integrate advanced academic skills. Successful integration depends on having a rich context for applying academic skills and knowledge. Exploring all aspects of an industry provides that context. Analyzing and solving the problems facing an industry and the enterprises within it involves utilizing skills in reading, writing, mathematics, science, and social studies.

Learning all aspects opens up choices in careers for students.

Providing students with understanding and experience in all aspects of their chosen industry is essential to empowering students to make career and life choices. If programs provide only the skills for one job, they force students in their early teens to choose what occupation they will have for the rest of their lives. They leave students unprepared to change their career goals or to cope with labor market changes. Teaching all aspects of an industry gives students transferable skills, such as planning and management, which expand their later opportunities, including enabling them to adapt to technological change.

C. Approaches to Incorporating All Aspects

For example, students can learn repair shop management, not just car repair.

There are a number of approaches to incorporating all aspects of the industry into particular programs. For example, students in a transportation program, instead of only learning car repair skills, can establish and run a repair shop or develop a project to improve local transportation options. In doing so, these students may study the history of transportation and its various sectors (including automotive, locomotive, aviation, etc.); the relationship of the shop to other parts of the industry; the physics behind alternative engine designs, pollution, and proper waste disposal; the role of auto workers and their organizations; and so forth.

Academies involve teachers, mentors, internships, and cooperative workplace placements.

"Academies," which are often school-within-a-school programs focusing on a particular industry, can be designed to involve students in all aspects of the industry. They involve teachers from a variety of disciplines in joint planning and team-teaching. Some academies have strong links with firms in their industry, which provide mentors, guest speakers, and even student internships. Cooperative workplace placements can be restructured so that the student's work experience fosters a critical understanding of all aspects of the industry and contributes to deeper academic skills.

A community development approach can also be very effective for teaching all aspects of the industry. School curricula can focus on creation of student-run enterprises. After researching and assessing their community's resources and needs, students select, develop, and run an enterprise which serves an unmet community need, is economically viable, and is democratically managed. This provides each student with experience in all aspects of the enterprise and industry. Examples of enterprises include child-care centers and housing rehabilitation.[10]

Community development approaches can be very effective.

Experiential Learning for All Students

Programs should integrate theoretical learning with applied, experiential learning. This may include a mix of work-based learning experiences (with outside learning hosts as well as within schools) and other types of service or community development projects. Work-based learning may include school-sponsored student-run enterprises.

The characteristics of experiential learning programs include hands-on learning, students' demonstrations of skills through a project, and mentoring and coaching relationships. High quality programs will work with employers who (a) believe in school-to-work and in helping students reflect on work-based experiences, (b) provide learning opportunities that advance students' understanding of and experience in all aspects of their industry, (c) offer a variety of work placements, (d) provide students with adult contact, and (e) provide students with the support they need to succeed in workplaces. All of this provides a context for high quality academic instruction for all students.

Experiential learning has several characteristics.

High Academic Standards and Link to Standards-Based Education Reform Initiatives

A. School-to-Work Systems and the Standards Set for All Students

One of the requirements of the School-to-Work Act is that school-to-work programs prepare students to meet the same academic standards set by the state for all students.[11] Linking school-to-work curricula with standards-based reform *is* critical to ensuring that participating students meet the same high academic standards as other students and receive instruction that qualifies them for admission to four-year colleges.

School-to-Work curricula must be linked to state academic standards.

Most states have established, or are in the process of establishing, academic standards for student achievement and programs. States have acted to set standards for all students under state education reform laws, under the Goals 2000: Educate America Act,[12] or both. Goals 2000 focuses on developing academic standards for student achievement and programs. States receive funds under Goals 2000 to develop and implement school improvement plans. The state's improvement plan must include academic content and performance standards for all students, assessments that are aligned with those standards, and strategies designed to provide all students with an opportunity to learn the material identified in the content standards. The Goals 2000 plan must also describe how the state's School-to-Work Act programs will be incorporated into the state's school reform efforts.[13] This includes detailing how high schools will be modified in order to provide career guidance and integrate academic and vocational education and work-based learning.[14]

Most states have set academic standards.

Link School-to-Work to Goals 2000.

School-to-work must enable students to meet these standards.

Whether the state has established standards under Goals 2000, under state education reform laws, or through some other process, the curricula in school-to-work programs must prepare students to meet them.[15] Towards this end, state educational agencies must involve school-to-work administrators in the development and implementation of state academic standards. State and local educational agencies must also ensure that school-to-work administrators (on the state and local levels) have access to information and expertise on the standards, so that they may design systems and programs capable of preparing school-to-work participants to meet them.

B. Title I of the Elementary and Secondary Education Act and High Academic Standards

Title I targets low-income, low-achieving students and helps them meet the state standards.

Title I programs are also linked to high academic standards. Title I of the Elementary and Secondary Education Act sends funds to schools with high concentrations of low-income students for the purpose of assisting schools in better serving low-achieving students.[16] States must set high quality standards for what all students should know and how they should be able to demonstrate their knowledge. If the state already has standards for all students, such as under Goals 2000 or a state education reform law, these must be the standards for Title I.[17] The School-to-Work Opportunities Act requires the same.[18]

i. Standards and quality in schools

Schools receiving Title I funds must assist participating students[19] to meet the challenging academic performance standards expected for all students, by providing them all with a program of instruction that —

These are key components of Title I instructional programs.

- Uses accelerated, enriched curriculum
- Uses effective instructional strategies (which may include the integration of vocational and academic learning)
- Is taught by highly qualified professional staff who participate in the ongoing professional development needed to enable all students to meet the standards
- Includes timely and effective individual assistance for any participating student having difficulty mastering any of the standards

Parents must be involved.

All of this must be accomplished through a plan jointly developed with the parents, consistent with the parent involvement policy. This policy must also be jointly developed with, and approved by, the parents.[20]

These reforms must be implemented.

These provisions hold tremendous promise for improvement of the core academic program, and more high schools now receive Title I funds than previously. However, attention to whether and how these reform provisions are being implemented is critical, in part because they call for dramatically different practices from the remedial add-ons that were previously the mainstay of Title I programming.

ii. Participation by students with disabilities

Students with disabilities must be included in Title I.

Students with disabilities must be included in Title I programs on the same basis as other students and must be included in assessments used for Title I purposes (which are assessments of the same academic skills and knowledge that must be the focus of school-to-work programs), with

reasonable adaptations and accommodations necessary to measure their achievement of those standards.[21] There are only a very small number of students with disabilities for whom the severity of their physical or cognitive disability prevents them from participating meaningfully in the same assessments as other students, even with appropriate accommodations. For these few students appropriate alternatives should be used to assess their educational progress.[22] Assessment results of student performance must be disaggregated in various ways, including by children with disabilities as compared to other students.[23]

Assessment results must be analyzed to show results for children and youth with disabilities.

C. IDEA and High Academic Standards

IDEA, too, requires linkage to standards-based reform, and to the same high academic standards to which school-to-work curricula must be linked. As further discussed in chapter 7, students with disabilities must be given meaningful opportunities to learn the bodies of knowledge and skills that all students are expected to master; must be included in state- and district-wide assessments; and must receive services designed to address unique disability-related needs *and* enable them to attain the high academic standards that are set for all students and embodied in the regular curriculum.[24] This includes aligning educational evaluations and IEPs with those standards.[25] In addition, states must adopt performance goals and indicators for students with disabilities that are aligned with the state standards adopted for all students, and report regularly to the public on how students are faring.[26] States must also collect and disseminate data on how students with disabilities perform on state- and district-wide assessments.[27]

IDEA requires linkage to reform and standards.

IEPs must include plans to meet standards.

Data must be provided to show how successful schools have been.

D. The Framework for Quality and New Forms of Collaboration

The framework for quality established by the School-to-Work Act has numerous policy and practice implications. Chief among them are a need for new forms of collaboration.

As noted above, school-to-work administrators and those responsible for implementing standards-based education reform must collaborate in order to ensure that school-to-work curricula prepare participants to meet the same high academic standards set for all students. In addition, if school-based learning, work-based learning, and connecting activities are to work as envisioned by the law, it is important that teachers, employers, mentors, and support service personnel work together to design and implement all of the programmatic elements discussed above.

New forms of collaboration at all levels are required.

For example, the process of developing high quality programs requires that academic and vocational teachers work together to develop the curriculum. Academic and vocational teachers must also work together with special educators and others who design instruction and provide support services to students with disabilities. To do this, it is imperative that teachers have common planning time and ongoing staff development activities.

Academic and vocational teachers and special educators must work together.

Equally critical, educators — including teachers, mentors, and providers of support services to students with disabilities — and employers must work together to ensure that school- and work-based learning are coordinated, and that work-based learning opportunities enable students to develop and use both academic and vocational skills.

Educators and employers must work together.

Notes to Chapter 2

1. See discussion in chapter 1, *supra*.
2. 20 U.S.C. §6102(a)(3).
3. See, e.g., 20 U.S.C. §1400(b)(4), (5).
4. School-based learning, work-based learning, and connecting activities are also addressed in chapter 3.
5. 20 U.S.C. §6103(4), (5) and §6112.
6. 20 U.S.C. §6113.
7. 20 U.S.C. §6114.
8. 20 U.S.C. §6103(1).
9. Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998, Pub. L. No. 105-332, 112 Stat. 3076 (October 31, 1998), sec. 1, §§122(c)(5)(A), 134(b)(3)(B), 135(b)(2), 135(b)(4)(B), 112 Stat. at 3104, 3114, 3115, 3116 (to be codified at 20 U.S.C. §§2342(c)(5)(A), 2354(b)(3)(B), 2355(b)(2), 2355(b)(4)(B).
10. For further discussion, see Paul Weckstein, Teaching Workplace Competencies and All Aspects of an Industry, in Naomi Thiers, ed., *Successful Strategies: Building a School-to-Career System*, pp. 293-302 (American Vocational Association, 1995).
11. 20 U.S.C. §6112(3).
12. 20 U.S.C. §5801 *et seq.*
13. 20 U.S.C. §5886(j).
14. *Id.*
15. 20 U.S.C. §6112(3).
16. 20 U.S.C. §6301 *et seq.*
17. 20 U.S.C. §6311(b)(1)(B).
18. For a fuller discussion of Title I, see Margot Rogers, *Planning for Title I Programs: Guidelines for Parents, Advocates, and Educators* (Center for Law and Education, 1995).
19. There are two kinds of Title I schools. In "schoolwide programs," all students are participating students. In "targeted assistance schools," participating students are those children failing, or at risk of failing, to meet the state's challenging performance standards who have the greatest need for special assistance.
20. 20 U.S.C. §§6314(b), 6315(c), and 6319.
21. 20 U.S.C. §§§6311(a)(3)(A) and (F), 6315(b)(2)(A).
22. "Guidance on Standards, Assessments, and Accountability," United States Department of Education, p. 43.
23. 20 U.S.C. §6311(b)(3)(I), 6314(b)(2)(A)(iv).
24. See, e.g., 20 U.S.C. §§1412(a)(17), 1414(a)(2)(A), 1414(c)(1)(iv), 1414(d)(1)(A)(i)-(v), 1414(d)(4)(A)(ii)(I).
25. 20 U.S.C. §§1414(b)(2)(A), 1414(c)(1)(iv), 1414(d)(1)(A), 1414(d)(4).
26. 20 U.S.C. §1412(a)(16).
27. 20 U.S.C. §1412(a)(17).

Purpose of Chapter —
To identify and explain three guiding principles for ensuring equity for youth with disabilities in school-to-work systems.

Chapter 3

Equity in Quality Systems

Three Guiding Principles

Policymakers, administrators, and educators need to take into account legal responsibilities and rights under the School-to-Work Act, Perkins, §504, the ADA, and IDEA in all aspects of system development, curricula planning, admissions, educational placement, instruction, and job opportunities.

While the details of these rights and obligations will vary in different circumstances, the convergence of these five laws gives rise to three universal key themes, or guiding principles —

- Equity in program development
- Equity in admissions criteria
- Linkage with IDEA for quality and equity

In this chapter, we briefly consider each of these principles, their legal bases, and their implications for policymakers, administrators, and educators. Subsequent chapters use case studies and examples to examine each one of these principles in greater depth.

Guiding Principle 1: Equity in System Development

School-to-work systems must address the needs of youth with disabilities.

From the outset, state and local agencies must plan school-to-work systems to address the needs of youth with disabilities. Youth with disabilities must be seen and treated as part of the core constituency of the school-to-work system designed for all students.

Legal Basis Under Career Preparation Laws

A. School-to-Work Act Requires That Systems Serve All Students

The School-to-Work Act requires that systems serve all students.

The School-to-Work Act is written in terms of serving *all* students. Therefore, all of the state- and local-level planning requirements are for serving all students, including students with disabilities. A School-to-Work system cannot meet its equity obligations by creating separate programs for students with disabilities.

1. *Components and requirements for program development*

In planning to serve all students, program developers must plan for each of the three basic components of school-to-work systems. As discussed in further detail in chapter 2, these include school-based instruction (including curricula that integrate academic and vocational learning, and enable all students to meet high academic standards); work-based learning (which uses workplaces as active learning environments by engaging employers in working with educators to provide opportunities for all students to participate in high quality work experiences); and connecting activities that link schools and workplaces. Towards this end, plans for school-to-work systems and programs must detail how they will —

Program development must encompass five broad areas as they affect all students.

- Incorporate three components: school-based learning, work-based learning, and connecting activities
- Provide participating students with opportunities to complete career majors[1]
- Integrate school- and work-based learning, integrate academic and occupational learning, and establish effective linkages between secondary and postsecondary education
- Provide students, to the extent practicable, with strong experience in and understanding of all aspects of the industry the students are preparing to enter
- Provide all students with equal access to the full range of program components (including both school-based and work-based learning components) and related activities, such as recruitment, enrollment, and placement activities[2]

2. *State and local planning*

Specific requirements for planning how to serve students with disabilities must also be met.

In conjunction with the five general programmatic requirements, there are specific requirements for planning how to serve students with disabilities. State development grants required states to describe how they would provide opportunities for students with disabilities.[3] Among other things, state plans must describe —

- How the state will coordinate with or integrate existing school-to-work activities with the Rehabilitation Act and IDEA[4]

- How the state will provide training for teachers, employers, mentors, counselors, related services personnel, and others that includes specialized training and technical support for the counseling and training of individuals with disabilities for high-skill, high-wage careers in nontraditional employment[5]
- How the state will ensure opportunities for students with disabilities to participate in school-to-work systems and programs[6]
- The performance standards that the state intends to meet in establishing and carrying out the statewide system, including how such standards relate to those performance standards established under other related programs[7]

Subgrants must meet these requirements.

A local partnership seeking a subgrant to carry out a local school-to-work program must describe how the program will meet all of the requirements of the act, regardless of whether the grant comes from the federal government or the state.[8] Additionally, if a local partnership is applying for a federal implementation grant, its plan must contain information consistent with the information that the state plan must include, as described above.[9]

B. Carl D. Perkins Vocational and Technical Education Act

Program development is to include equitable participation for special population students.

As under prior law, the overall program development requirements built into the 1998 Perkins Act include providing equitable participation for special-population students, including students with disabilities, in quality programs. There are both local and state requirements that address equity in program development.

1. Local program planning and evaluation

Local applications for Perkins funds may be submitted by a local educational agency, an area vocational education and technical education school, a postsecondary institution, or certain other entities.[10] These local-level recipients must submit a plan to the state for approval and funding. To ensure equity in program development, the 1998 legislation requires local plans to describe, among other things —

Local plans must describe these items.

- How the recipient will review vocational education and technical education programs and identify and adopt strategies to overcome barriers that result in lowering rates of access or success in programs for special populations[11]
- How the recipient will provide programs that are designed to enable special populations to meet state levels of performance set for all students[12]
- How individuals who are members of special populations will not be discriminated against[13]
- The process that will be used to independently evaluate and continuously improve program performance,[14] and
- How parents, students, teachers, representatives of special populations, and others are involved in development, implementation, and evaluation of programs, and how they are effectively informed about and assisted in understanding Perkins requirements[15]

To plan for equal access, nondiscrimination, and success, as Perkins requires, policymakers and program developers must plan for the provision of the services and supports individual students will need to succeed. This should be an integral part of program development on the local level (as well as on the state level, as discussed below).

Planning for equity is also an integral part of ongoing program evaluation, review, and improvement under Perkins. As noted above, local recipients must arrange for independent evaluation of their programs, and continuously improve them. They must also (again as noted above) review their programs to identify the barriers that are resulting in lower rates of access *or* success for special-population members and then adopt strategies to overcome those barriers. Another provision of the Perkins Act specifies that local recipients must develop and implement program evaluations that include an assessment of how the needs of special populations are being met.[16]

These local requirements are designed to identify the extent to which programs are successful in providing a quality education for all students and ensuring that distinctive needs are addressed for students who are members of special populations. In undertaking to meet them, local recipients should determine whether or not any barriers which prevent student access to programs are being identified and removed, and whether or not support services are effectively enabling students who are members of special populations to demonstrate progress in attaining quality educational outcomes.*

2. State planning and evaluation

The state has responsibility for oversight of local implementation. The state plan for Perkins programs identifies how resources will be allocated to local education agencies (LEAs) for vocational education programs, and how the state will comply with the quality and equity provisions of the act. The 1998 Perkins Act gives states the option of filing a separate Perkins plan, or of including its Perkins planning in a unified state plan under the Workforce Investment Act of 1998.[17]

State Perkins plan must describe these items.

Regardless of which option a state chooses, state plans must include the 21 components listed in the 1998 Perkins Act.[18] Equity is infused throughout these state plan requirements; specifically, the state's Perkins plan must —

- Describe the state's program strategies for special populations[19]
- Describe how individuals who are members of special populations will be provided with equal access to activities funded under Perkins[20]
- Describe how individuals who are members of special populations will not be discriminated against on the basis of special-population status[21]
- Describe how data will be reported in order to adequately measure the progress of special-population students[22]
- Describe how individuals who are members of special populations will be provided with programs designed to prepare them for further learning and for high-skill, high-wage careers[23]

* For a discussion of state and local program evaluation under the School-to-Work Act, including the outcome and performance measures to be used in such assessments, see chapter 8.

- Describe how individuals who are members of special populations will be provided with programs designed to enable special populations to meet or exceed the state levels of performance set for all students[24]
- Describe how the state will evaluate annually the effectiveness of vocational and technical education programs[25]
- Describe methods for joint planning and coordination of vocational and technical education programs with other federal education programs[26] (for example, the federal Individuals with Disabilities Education Act), and
- Describe how the state will actively involve parents, teachers, and others in program planning, development, implementation, and evaluation[27]

Perkins amendments require performance measures.

In addition, the 1998 amendments to Perkins require states to develop performance measures against which the effectiveness of vocational education in the state will be evaluated.[28] "Levels of performance" must be established for four core indicators of performance specified in the statute, and are to be included in the state plan. Using these performance levels, the state each year must evaluate local programs, as well as the state's performance as a whole. As discussed below in chapter 8, inadequate performance at the state or local level requires development of an improvement plan.[29]

State plans under the 1998 Perkins Act are to cover a five-year period,[30] with new plans first due in April 1999. In order to ease states' transition to the requirements of the new law, the U.S. Department of Education, Office of Vocational and Adult Education, which enforces Perkins, offered states the option of filing a one-year transitional plan for funding for fiscal year 1999, to be followed by a multi-year plan for the period July 1, 2000, and beyond. While transitional plans need not have contained the depth of discussion expected in full five-year plans, they *were* required to emphasize, among other things, barriers to equity, equal access, and nondiscrimination for special populations, and the provision of programs designed to enable special populations to meet or exceed state levels of performance set for all students, and to prepare them for further learning and high-skili, high-wage careers.[31]

Legal Basis Under Civil Rights Laws

The civil rights laws would require equity in system and program development even if the School-to-Work and Perkins Acts did not.

The civil rights laws require equity in system development for youth with disabilities even if the School-to-Work and Perkins Acts did not. The antidiscrimination requirements and protections of §504 and Title II of the ADA are detailed and far reaching. Effective compliance is impossible unless the needs and rights of youth with disabilities are built into the design of the high quality systems planned for all youth. Virtually all of the specific requirements of §504 and ADA regulations and the OCR Guidelines have implications for system design.

A. "Qualified" Youth

Both §504 and the ADA protect "qualified" youth with disabilities.

These implications begin with the definition of which youth with disabilities are protected against discriminatory practices by these laws. Both §504 and ADA protect "qualified" youth with disabilities. Under §504, a youth is "qualified" if a nondisabled youth of his or her age may take part in school

The term "qualified" is defined.

Almost all youth are "qualified."

programs, or if state law or the federal IDEA entitles youth with disabilities of that age to public education.[32] "Qualified" youth under §504 must be provided with needed special education and related services.[33]

Under Title II of the ADA, a "qualified" youth is anyone who meets the "essential eligibility requirements" of the program in question, "*with or without* reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services."[34]

Taking §504 and the ADA together, then, any youth who could participate in school-to-work programs with or without specialized instruction (special education), related services, other instructional supports, and/or reasonable accommodations is "qualified" to participate free of discrimination. Therefore, the number of youth who are *not* "qualified" to participate in the school-to-work system created for all students is very limited. Provisions for delivering specialized instruction, related services, other instructional supports, etc., to the vast majority who are "qualified" must necessarily be built into system and program design from the start.

B. OCR Guidelines

The OCR Guidelines underscore this obligation.

Recipients of federal money involved in school-to-work systems may not use a formula or other method of allocating funds that has the effect of discriminating.

The OCR Guidelines underscore this obligation, stressing that students may not be excluded from programs or courses because buildings or equipment are physically inaccessible to them, or because they need related aids and services or auxiliary aids. If necessary, the guidelines explain, programs must modify instructional equipment, modify or adapt the manner in which instruction is provided, house the program in accessible facilities, and provide related aids and services that assure an appropriate education.[35]

Furthermore, state education agencies, school systems, schools, and other recipients of federal funds involved in school-to-work systems may not use a formula or other method of allocating funds that has the effect of discriminating on the basis of disability.[36] Budgets thus must be designed to allow sufficient money for the specialized instruction, related services, and other supports and accommodations necessary for equitable participation by youth with disabilities.

C. Comparable Benefits and Services for Youth With and Without Disabilities

Youth with disabilities must be provided an equal opportunity to gain the same benefits and results and reach the same level of achievement as other youth.

Perhaps the most profound implications for program design flowing from §504 and the ADA relate to the requirement that youth with disabilities be provided benefits and services comparable to those afforded nondisabled students. School-to-work systems may not provide youth with disabilities opportunities to participate and benefit that are unequal to those offered their peers, or provide them with programs, benefits, or services that are not as effective as those provided to others.[37] To the contrary, youth with disabilities must be provided with services that give them an equal opportunity to gain *the same benefits, obtain the same results, and reach the same level of achievement* that other youth participating in a particular school-to-work program attain.[38]

D. Separate Programs are Not the Answer

School-to-work systems cannot meet their equity obligation by creating separate programs for students with disabilities.

School-to-work systems cannot meet their equity obligation by simply creating separate programs and services for students with disabilities. Both §504 and ADA regulations forbid different or separate programs, unless this is "necessary" in order to deliver services that are as effective as those

other youth receive.[39] It is also illegal under both laws to force a youth with a disability into a different or separate program if he or she could participate in the "regular" program.[40]

A wide array of supports must be provided as needed to enable participation in the same programs designed for all youth.

As explained above, a wide array of supports must be provided as needed to enable youth with disabilities to participate equitably in quality programs designed for all youth. If legally required supports are available, different or separate programs will rarely be "necessary." In addition, the OCR Guidelines require that students with disabilities be placed in the regular vocational education program to the maximum extent appropriate to individual student needs; a student may not be excluded unless the program demonstrates that he or she cannot learn satisfactorily there, even with special education supports, including supplementary aids and services.[41]

§504 and ADA prohibit using administrative policies and techniques that result in discrimination. Avoiding these practices requires careful planning and program design.

Finally, as a "catch all" safeguard, the §504 and ADA regulations both prohibit state education agencies, local partnerships, school districts, and schools from using administrative policies and techniques that, *intentionally or not*, result in discrimination. This ban includes methods that in effect defeat or undermine the education program's purpose for students with disabilities.[42] Avoiding these practices requires careful attention to the potential consequences of all planning and program design decisions.

Guiding Principle 2: Equity in Admission Criteria

Admissions criteria must not result in discrimination.

States and school systems must carefully scrutinize entrance criteria for both school-based and work-based components to ensure that they are truly essential to participation in the particular program, and that they do not have the effect of discriminating against students with disabilities. States and school systems must also ensure that employers and other work-based learning hosts (such as community organizations) do not discriminate. In addition, entrance criteria may have to be modified for individual students, based upon their needs, abilities, and the nature of the particular program. These issues should be addressed systematically in program design and as part of regular reviews of program participation and outcomes.

Legal Basis Under Career Preparation Laws

A. School-to-Work Act Requires Equal Access to All Program Components

School-to-work systems must provide all students equal access to the full range of program components.

School-to-work systems must provide *all* students with equal access to the full range of program components and related activities. This includes work-based learning, school-based learning, and connecting activities.[43] The equal-access requirement is particularly important in light of Supreme Court rulings on other education laws, that when a law requires equal access, that access must be meaningful.[44] Meaningful access includes the services and assistance that students need to fully participate and succeed in the program.

B. Carl D. Perkins Vocational and Technical Education Act

The Perkins Act, too, requires that students with disabilities (and other members of special populations) be provided equal access. Further, Perkins explicitly prohibits discrimination based upon disability or other special-population status. As discussed above, states and local school districts (and other local recipients of Perkins funds) have an affirmative obligation to plan the details of *how* equal access and nondiscrimination will be ensured for students with disabilities, including how their success in the high quality programs envisioned by Perkins will be promoted.[45]

The equity provisions of Perkins, §504, and the ADA mean that districts must provide equal access to the full range of vocational education programs and activities made available to other students, such as, for example, recruitment, enrollment, and placement activities; occupationally specific courses of study; cooperative education; apprenticeship programs; and career guidance and counseling services. This includes allowing students with disabilities to enroll in each and every vocational program within the school.

Legal Basis Under Civil Rights Laws

A. *Entrance Criteria in General*

1. *School-based learning*

An entrance standard that discriminates can only be used when two criteria are met.

Section 504 and the ADA address entrance criteria in a straightforward way. The OCR Guidelines, enforcing §504, ban the use of entrance criteria that discriminate on the basis of disability. The ban includes most criteria that disproportionately exclude students with a particular kind of disability, for example, emotional disturbance or a hearing impairment.

An entrance standard that has this kind of discriminatory effect may only be used if —

- It has been *validated* as *essential* to participation in the program, *and*[46]
- There is no alternative that does *not* disproportionately exclude

These principles apply to all entrance criteria.

Validation is an arduous undertaking that can only be accomplished by very carefully constructed and presented evidence.

These nondiscrimination principles apply to *all* entrance criteria, including past academic performance, scores on standardized tests, and past conduct and discipline records.[47]

An unnecessary entrance standard that excludes youth with disabilities is unlawful.

The ADA regulations take a similar approach. School-to-work programs may not "use eligibility criteria that screen out or tend to screen out an individual with a disability, or individuals with a particular kind of disability, from full and equal participation in programs, unless the criteria are *necessary* to the program."[48]

Requirements apply to work-based learning.

In addition, the ADA regulations as well as the §504 regulations prohibit the use of "criteria or methods of administration" that, intentionally or not, result in discrimination, or defeat or undermine the education program's purpose for students with disabilities.[49] An unnecessary entrance standard that excludes students with disabilities from the high quality educational opportunities that school-to-work systems offer is just such an unlawful "criteria or method of administration."

2. *Work-based learning*

The §504 and ADA requirements described above apply to work-based as well as school-based learning. When programs include off-campus work opportunities, they must ensure that the outside employer or other learning host abides by these rules when selecting students. The §504 and ADA regulations prohibit education programs from doing through contracts or other arrangements with third parties what the regulations prohibit education programs from doing themselves, directly.[50] Thus if an outside learning host discriminates, the program must convince its partner to comply with the law, or end the relationship.

OCR guidelines prohibit school and employer discrimination.

The OCR Guidelines are even more explicit. Each program must ensure that "(a) it does not discriminate against its students on the basis of handicap in making available opportunities in cooperative education, work study and job placement programs; and (b) students . . . are not discriminated against *by employers or prospective employers* on the basis of . . . handicap in recruitment, hiring, placement, assignment to work tasks, hours of employment, levels of responsibility, and in pay."[51]

3. *Equity, school-to-work, and the Fair Labor Standards Act*

Programs must make sure that students with disabilities have equal and meaningful access to paid learning opportunities.

If they offer paid work-based learning, school-to-work systems and programs must make sure that students with disabilities have equal and meaningful access to paid learning opportunities. The School-to-Work Act's mandate to serve "all" students, the Perkins provisions regarding equal access and nondiscrimination, §504, and the ADA all require this. In addition, the federal Fair Labor Standards Act (FLSA)[52] protects youth in school-to-work programs from being discriminated against in paid work opportunities because of their disabilities in yet another way.

The FLSA establishes a federal minimum wage.

The FLSA establishes a federal minimum wage, and describes the circumstances under which it must be paid.[53] These rules apply to individuals with and without disabilities. Students with disabilities participating in work-based learning are covered by the FLSA to the same extent (if any) as other students participating in similar activities in that placement, and are entitled to the same (if any) minimum wage.[54] Put another way, there is no exemption from the FLSA simply because a student has a disability.

Are school-to-work students covered by minimum wage laws?

A key question under the FLSA for *all* school-to-work students is whether they are "employees" of the work host and, therefore, covered by the minimum wage law. In regard to students with disabilities, confusion may arise on this issue due to misunderstanding of joint U.S. Department of Labor and U.S. Department of Education guidelines on the FLSA and students with disabilities engaged in what the guidelines call "community-based vocational education."

Community-based vocational education typically uses real work settings to teach work-related skills to youth with severe cognitive impairments who have difficulty applying skills they learn in the classroom to other settings. For example, a school might make arrangements with a local hospital for a student to learn on-site the competencies to be an orderly (e.g., delivering meal trays to patient rooms and matching the name on the tray to the name on the bed), along with general work-related skills (e.g., using public transportation safely to reach a job site, following time schedules at work and interacting

appropriately with supervisors and coworkers). Community-based vocational education also uses real workplaces as sites for vocational exploration and assessment.

The Departments of Labor and Education guidelines for determining whether students are employees must be applied with care.

With the growth of community-based vocational education, questions arose about whether students should be considered employees of the sites where they are being trained or are participating in vocational exploration or assessment, and, therefore, whether the FLSA applies. In response, the Department of Labor and Department of Education jointly issued guidelines for determining whether these students are employees." The guidelines are not aimed at work-based learning in the context of the School-to-Work Act. While it is possible that the guidelines might become relevant in unique, individual situations, administrators must take care that they are not inappropriately applied to deny paid employment to students with disabilities.

B. Applying General Entrance Criteria to Particular Students

Entrance criteria may need to be modified on a case-by-case basis for individual students.

The duty to maintain equitable, nondiscriminatory entrance criteria for school- and work-based learning does not end once the general criteria for program admission are set—even if the general criteria meet the §504 and ADA standards set above. Criteria may need to be modified for individual students on a case-by-case basis, in light of the student's particular needs and interests and the nature of the program in which he or she seeks to enroll.

Changes must be made unless they alter the fundamental nature of the program.

Under the ADA, school-to-work systems must make reasonable changes in their policies, practices, and procedures when necessary to avoid disability discrimination, unless the changes would "fundamentally alter" the nature of the program in question.[55] This includes admission policies, practices, and procedures. As discussed above, programs also have independent obligations under §504 and the ADA to provide the specialized instruction, support services, auxiliary aids, modifications, and reasonable accommodations necessary to assist youth with disabilities in meeting the essential requirements for admission and participation.

Guiding Principle 3: Linkage With IDEA for Quality and Equity

The School-to-Work and Perkins Acts, §504, and the ADA work with IDEA.

The School-to-Work and Perkins Acts, §504, and the ADA entitle youth with disabilities to enroll in the high quality programs designed for all youth and to receive the supports, modifications, and accommodations they need for full participation. IDEA provides practical tools for fulfilling the responsibilities and making real the rights that these four laws create. Conversely, school-to-work systems and their component programs may be used to meet, in part, the transition planning and services requirements of IDEA.

[55] For an in-depth discussion of community-based vocational education and the Fair Labor Standards Act, see Marlene Simon, Brian Cobb, William D. Halloran, Michael Norman, and Patricia Bourexis, *Meeting the Needs of Youth with Disabilities: Handbook for Implementing Community-based Vocational Education Programs According to the Fair Labor Standards Act*, (1994), available from the National Transition Network. According to the guidelines, students are employees unless seven criteria are met. The guidelines, including the seven criteria, are reprinted in appendix B of the above publication.

Each of the five federal laws—the School-to-Work and Perkins Acts, §504, the ADA, and IDEA—creates separate and independent rights for students, and are an independent source of matching responsibilities for policymakers, administrators, and educators.

These five laws create separate, independent rights and responsibilities.

Independent Rights and Responsibilities

The Perkins Act, for example, mandates participation with needed supports for students with disabilities in high quality "regular" vocational education programs, quite apart from any rights or responsibilities under IDEA. The School-to-Work Act, §504, and the ADA similarly create rights to enroll in the programs developed for all students and responsibilities in schools to provide the modifications, accommodations, and support services needed for full participation, equal benefit, and successful learning—again, independent of IDEA requirements.

Students with disabilities have rights to participate and receive services.

On the other hand, IDEA—quite apart from the provisions of the other four laws—requires schools to offer, and students to receive, "transition services," including career development education. Much as the School-to-Work and Perkins Acts link occupational learning to high quality academics, IDEA transition services must be provided in the context of a free appropriate public education. The latter includes full participation in the regular curriculum, with the specialized instruction and related services needed to learn to the standards set for all students. Like all services under IDEA, these must be provided in the "regular" education environment to the maximum extent consistent with the student's needs.

Complementary Rights and Responsibilities

At the same time, these laws complement one another. While they give rise to independent rights and responsibilities, the programs and processes under each can be, and should be, used to help meet requirements under the others. IDEA processes and services are tools for implementing students' rights under School-to-Work, Perkins, §504, and the ADA to meaningful and effective participation in vocational education and school-to-work programs. School-to-work programs, in turn, can be used to fulfill, in part, IDEA transition-service requirements.

The programs and processes under each should be used to help meet requirements under the others.

What follows is an introduction to these possibilities. Specific suggestions for linking school-to-work components with IDEA's evaluation, IEP, and transition-planning provisions are discussed in detail in chapter 7.

IDEA as a Tool for Ensuring Quality and Equity in School-to-Work Systems

Using IDEA to facilitate students' rights under the School-to-Work Act and Perkins Acts, §504, and the ADA to quality and equity in the programs created for all students is practically sound and legally required. As a practical matter, IDEA has already created an individualized planning and monitoring *process* well-suited to identifying, designing, and refining the accommodations, modifications, and/or support services that the School-to-Work and Perkins Acts, §504, and the ADA may require for a particular student.

Regular and special educators, students, and parents meet to prepare IEPs.

This process begins with a comprehensive evaluation of the student's educational needs, and continues with annual—and more frequent if necessary—planning meetings at which regular and special educators, along with the student and his or her parent, prepare an individualized educational program—the IEP—for meeting the student's needs over the coming year.[56] This includes identifying and designing any supplementary aids and services the student will need to participate in "regular" education school-to-work courses.[57] The plan must be revisited and revised by this planning group as necessary during the year to address any difficulties the student may experience.[58]

IDEA requires schools to offer services that can facilitate compliance with School-to-Work, Perkins, §504, and the ADA.

Since its inception, IDEA has required that schools have in place, in addition to a *process*, many of the *services* independently required for compliance with the equity and quality mandates of the School-to-Work and Perkins Acts, §504, and the ADA. For example, IDEA requires states, school systems, and schools to have available a "continuum of alternative placements" for meeting student needs, including "regular" vocational education with appropriate supports.[59] IDEA also requires that the educational delivery system already include such critical services as itinerant instruction in "regular" classes by special educators, changes in the way curriculum is ordinarily delivered, evaluation of a student's need for assistive technology, and provision of assistive technology devices.[60]

As a legal matter, both the School-to-Work and Perkins Acts require the programs and systems they fund to be coordinated with IDEA.[61] This should include drawing upon IDEA rights, processes, personnel, and services as tools for fulfilling state and local responsibilities, and making real student rights, in school-to-work systems. Further, the Perkins Act expressly states that Perkins funds may be used to pay for vocational and technical education services included in an IDEA student's Individualized Education Plan.[62]

School-to-Work Systems as Resources for Transition Planning and Services Under IDEA

The assistive role of schools has been strengthened.

The 1997 amendments to IDEA strengthened the role schools must play in assisting youth in making the transition from school to postsecondary life. As discussed above in chapter 1, by age 16 each student's IEP must include needed "transition services."[63] Under the amended IDEA, the focus on *instruction* relevant to postschool activities must begin even earlier. Beginning when a student is 14 years old, IEPs must plan for and address the child's "course of study" as it relates to the transition to adult life by, for example, providing for a vocational education program and/or participation in advanced placement courses.[64] In making this change, Congress explained that the purpose of this new requirement is to focus attention on how the student's educational program can be planned to help the student make a successful transition to his or her goals for life after secondary school.[65]

It is easy to see how school-to-work programs can help meet these IDEA transition requirements. When consistent with student goals and interests, they can comprise instruction, or a "course of study" designed to lead to successful transition. The integration of academic and occupational learning, emphasis on all aspects of the industry, and linkage to postsecondary education that school-to-work programs feature can help ensure that this "course of study" is academically rich, and that students with disabilities are not being tracked into low quality programs that limit their future options (e.g., higher education).

Work-based components and School-to-Work Act "connecting activities," discussed above in chapter 2, are resources for a variety of the other IDEA-required transition services discussed in chapter 1, including, for example, work and community experiences, the development of employment objectives, and preparation for postsecondary education and training. In addition, an overall program requirement under the School-to-Work Act is that students have opportunities to complete career majors which, among other things and consistent with IDEA transition requirements, prepare students for employment in broad occupational clusters or industry sectors; prepare students for a first job; and may lead to postsecondary education or training.[66]

Implications for Policymakers and Administrators

Walls Between Special Education and School-to-Work

For these three guiding principles to become practice, the wall that often exists between what is conceived of as "special education," on the one hand, and school-to-work or vocational education, on the other, must come down. Unitary systems in which all educators coordinate their work to support equitable participation and quality outcomes for all students—and have the resources and supports they need in order to do so—must be created. If students with disabilities are to learn effectively in programs that integrate high-level academic and vocational instruction and teach all aspects of the industry, special educators and related services personnel must be able to bring to bear expertise for teaching this content to the diverse body of youth with disabilities. School- and work-based instructors must receive the resources and supports they need to teach effectively, and to accommodate, students with diverse learning needs and styles. Schools must organize themselves in a way that maximizes such coordination and collaboration.

Personnel Coordination and Professional Development

The School-to-Work and Perkins Acts and IDEA all speak to the need for personnel coordination and professional development towards these ends.[67] IDEA requires each state to implement a "comprehensive system of personnel development" which must, among other things, address the need for pre-service and in-service preparation to ensure that *all* of those who work with students with disabilities—special, regular, and vocational educators included—have the skills and knowledge necessary to meet the needs of youth with disabilities.[68] This plan must be integrated to the maximum extent possible with other professional development plans and activities, such as those undertaken under the School-to-Work and Perkins Acts.[69]

Collaboration Between Stakeholders

Further, the federal investment for school-to-work is intended to support the development and early implementation of state and locally designed systems that integrate local, state, and other federal funds, rather than to create a new program dependent on a separate funding stream. This means that collaboration between different stakeholders is necessary. Accordingly, policymakers and administrators designing a school-to-work system must work together from the outset to determine the best ways to utilize funds from various sources that are targeted for students with disabilities.

Supplementary Services to Meet Individual Needs

Finally, school-to-work systems and the programs that comprise them must provide the support services that students with disabilities need to succeed in those programs, based on assessment of their individual needs.[70] These may include, among other things, modifications in the method by which the curriculum is delivered, supportive personnel, instructional aids and devices, modification of curriculum content, equipment modification, classroom modification, and other appropriate accommodations. Policymakers, administrators, and educators must bear in mind that once access to programs has been assured, supplementary services and supports must be provided to enable all students to succeed in the programs.

Notes to Chapter 3

1. A career major is a coherent sequence of courses or field of study that, among other things, prepares a student for a first job, prepares the student for employment in broad occupational career clusters or industry sectors, typically includes at least two years of secondary and one or two years of postsecondary education, and results in a high school diploma or an alternative for students with disabilities, where appropriate.
2. 20 U.S.C. §6111.
3. 20 U.S.C. §6123(b)(6).
4. 20 U.S.C. §6143(d)(6)(H) and (K).
5. 20 U.S.C. §6143(d)(7).
6. 20 U.S.C. §6143(d)(15).
7. 20 U.S.C. §6143(d)(21).
8. 20 U.S.C. §§6145(b)(2)(A), 6173(c)(1).
9. 20 U.S.C. §6173(c)(3).
10. See Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998, Pub. L. No. 105-332, 112 Stat. 3076 (October 31, 1998) (hereinafter "Pub. L. 105-332), sec. 1, §3(11), 112 Stat. at 3079 (to be codified at 20 U.S.C.§2302(11)) (defining "eligible recipient").
11. Pub. L. 105-332, sec. 1, §134(b)(7)(A), 112 Stat. at 3115 (to be codified at 20 U.S.C. §2354(b)(7)(A)).
12. *Id.* at §134(b)(7)(B), 112 Stat. at 3115 (to be codified at 20 U.S.C. §2354 (b)(7)(B)).
13. *Id.* at §134(b)(8), 112 Stat. at 3115 (to be codified at 20 U.S.C. §2354(b)(8)).
14. *Id.* at §134(b)(6), 112 Stat. 3115 (to be codified at 20 U.S.C. §2354(b)(6)).
15. *Id.* at §134(b)(4), 112 Stat. 3114 (to be codified at 20 U.S.C. §2354(b)(4)).
16. *Id.* at §135 (b)(5), 112 Stat. 3116 (to be codified at 20 U.S.C. §2355(b)(5)).
17. See *id.* at §122(d), 112 Stat. at 3105 (to be codified at 20 U.S.C. §2342(d)). Note that the 1998 Perkins legislation removed the authority to include Perkins planning in a comprehensive state plan pursuant to the Elementary and Secondary Education Act. *See* Pub. L. 105-332, §(3)(c)(3), 112 Stat. at 3125-26 (amending 20 U.S.C. §8852(a)(2)).
18. See Pub. L. 105-332, sec. 1, §122(c), 112 Stat. at 3103-05 (to be codified at 20 U.S.C. §2342(c)).
19. *Id.* at §122(c)(7), 112 Stat. at 3104 (to be codified at 20 U.S.C. §2342(c)(7)).
20. *Id.* at §112(c)(8)(A), 112 Stat. at 3104 (to be codified at 20 U.S.C. §2342(c)(8)(A)).
21. *Id* at §122(c)(8)(B), 112 Stat. at 3104 (to be codified at 20 U.S.C. §2342(c)(8)(B)).
22. *Id.* at §122(c)(12), 112 Stat. at 3104 (to be codified at 20 U.S.C. §2342(c)(12)).
23. *Id.* at §122(c)(8)(C), 112 Stat. at 3104 (to be codified at 20 U.S.C. §2342(c)(8)(C)).
24. *Id.*
25. *Id.* at §122(c)(6), 112 Stat. at 3104 (to be codified at 20 U.S.C. §2342(c)(6)).

26. *Id.* at §122(c)(16), 112 Stat. at 3105 to be codified at 20 U.S.C. §2342(c)(16)).
27. *Id.* at §122(c)(3), 112 Stat. at 3103 (to be codified at 20 U.S.C. §2342(c)(3)).
28. See *id.* at §113, 112 Stat. at 3087 (to be codified at 20 U.S.C. §2323).
29. See *id.* at §123, 112 Stat. at 3106 (to be codified at 20 U.S.C. §2343).
30. *Id.* at §123(a)(1), 112 Stat. at 3102 (to be codified at 20 U.S.C. §2343(a)(1)).
31. See Program Memorandum OVAE/DVTE FY 99-2, "Guidance for FY 1999 State Plan Requirements" (November 1998).
32. 34 C.F.R. §104.3(k)(2).
33. 34 C.F.R. §104.33(b).
34. 42 U.S.C. §12131(2).
35. 34 C.F.R. part 100, App. B, ¶IV-N.
36. 34 C.F.R. part 100, App. B, ¶III-B.
37. 34 C.F.R. §104.4(b)(1)(ii), (iii); 29 C.F.R. §32.4(b)(1)(ii), (iii); 28 C.F.R. §35.130(b)(1)(ii), (iii).
38. 34 C.F.R. §104.4(b)(2); 29 C.F.R. §32.4(b)(2); 28 C.F.R. §35.130(b)(1)(iii).
39. 34 C.F.R. §104.4(b)(1)(iv); 29 C.F.R. §32.4(b)(1)(iv); 28 C.F.R. §35.130(b)(1)(iv).
40. 34 C.F.R. §104.4(b)(3); 29 C.F.R. §32.4(b)(3); 28 C.F.R. §35.130(b)(2).
41. 34 C.F.R. part 100, App. B. ¶VI-A. *See also* 34 C.F.R. §104.34(a) (students with disabilities must be placed "in the regular educational environment . . . unless it is demonstrated . . . that the education of the person in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily"); 28 C.F.R. §35.130(d) (public entity must administer its programs and services in the most integrated setting appropriate to the needs of qualified individuals with disabilities); 29 C.F.R. §32.4(d) (same re: recipients of funds from Department of Labor).
42. 34 C.F.R. §104.4(b)(4); 29 C.F.R. §32.4(b)(4); 28 C.F.R. §35.130(b)(3).
43. 20 U.S.C. §6111(5).
44. See, e.g., *Lau v. Nichols*, 414 U.S. 563 (1974).
45. See Pub. L. 105-332, sec.1, §§122(c)(7), (8) and 134(b)(7), (8), 112 Stat. at 3104 and 3115-16 (to be codified at 20 U.S.C. §§2342(c)(7), (8) and 2354(b)(7), (8)).
46. Tests and other evaluation materials are considered valid when (1) there is documentation, supplied by the test developer or research groups; (2) the tests successfully measure what they claim to measure; (3) they are used only for the specific purpose(s) for which they were developed; and (4) they are administered in conformance with the instructions provided by the publisher. See U.S. Department of Education/Office for Civil Rights, Investigative Guidance on Fairness in Testing (1985).
47. 34 C.F.R. part 100, App. B, ¶IV-K.
48. 28 C.F.R. §35.130(b)(8) (emphasis added).
49. 34 C.F.R. §104.4(b)(4); 29 U.S.C. §32.4(b)(4).

50. See 34 C.F.R. §104.4(b)(1) and 29 C.F.R. §32.4(b)(1) (under §504 regulations, programs may not engage in prohibited discriminatory practices "directly or through contractual, licensing, or other arrangements"); 28 C.F.R. §35.130(b)(1) (same re: ADA); 34 C.F.R. §104.4(b)(4) and 29 C.F.R. §32.4(b)(4) (under §504 regulations, programs may not, "directly or through contractual or other arrangements," use criteria or methods of administration that discriminate); 28 C.F.R. §35.130(b)(3) (same re: ADA).

51. 34 C.F.R. part 100, App. B, ¶VII-A (emphasis added).

52. 29 U.S.C. §201 *et seq.*

53. The FLSA also addresses overtime, employer record-keeping requirements, and child labor. Many states have also enacted their own laws addressing these issues. Where this is the case, employers must comply with the FLSA as well as any stricter state law provisions protecting employees. 29 U.S.C. §218(a).

54. In rare instances, employers may obtain special permission from the U.S. Department of Labor to pay an employee with a disability less than the minimum wage. The FLSA permits the department to issue "special certificates" on a case-by-case basis where a worker's productive capacity is impaired, provided a number of conditions are met. Workers subjected to such reduced wages have the right to file an appeal with the department. See generally 29 U.S.C. §214(a).

55. 28 C.F.R. §35.130(b)(7).

56. 20 U.S.C. §§1414(b)(2), 1414(d).

57. 20 U.S.C. §1414(d)(1)(A)(iii).

58. 20 U.S.C. §1414(d)(4).

59. 34 C.F.R. §§300.551, 300.17 (1997).

60. 34 C.F.R. §§300.5, 300.6, 300.308, 300.551(b)(2) (1997); *Oberti v. Bd. of Ed. of Borough of Clementon School District*, 995 F.2d 1204, 1216 (3rd Cir. 1993); Judith E. Huemann and Thomas Hehir, U.S. Department of Education/Office of Special Education Programs, Memorandum 95-5, November 23, 1994.

61. Pub. L. 105-332, sec. 1, §122(c)(16), 112 Stat. at 3105 (to be codified at 20 U.S.C. §2342(c)(16)); 20 U.S.C. §6143(d)(6)(H).

62. Pub. L. 105-332, sec. 1, §325(c), 112 Stat. at 3124 (to be codified at 20 U.S.C. §2415(c)).

63. 20 U.S.C. §1414(d)(1)(A)(vii)(II).

64. 20 U.S.C. §1414(d)(1)(A)(vii)(I).

65. *See* H. Rep. No. 105-95 at p. 101.

66. 20 U.S.C. §6111(2).

67. See, e.g., Pub. L. 105-332, sec. 1, §§122(c)(2), 123(c)(1)(B), 124(b)(2)(A), 124(b)(3), 134(b)(1), 135 (b)(4), 112 Stat. at 3103, 3106, 3107, 3115, (to be codified at 20 U.S.C. §§2342(c)(2), 2343(c)(1)(B), 2344(b)(2)(A), 2344(b)(3), 2354(b)(10), 2355(b)(4)) (Perkins provisions); 20 U.S.C. §§6125(a), 6143(b)(7), 6145(b)(4)(E), 6145(b)(4)(N), 6145(c)(3) (School-to-Work Act provisions).

68. 20 U.S.C. §§1412(a)(14), 1453(c)(3)(D).

69. 20 U.S.C. §1453(c)(3)(D)(ix).

70. As discussed above, this mandate arises from various provisions of the School-to-Work Act, Perkins Act, Section 504, the ADA, and IDEA.

Purpose of Chapter —
To illustrate some of the common problems caused by inadequate planning for equity in the design of school-to-work opportunities, along with their legal, policy, and practice implications.

Chapter 4

Equity in Program Development

This is the first of four chapters that closely examine each of the three guiding principles for serving youth with disabilities in high quality school-to-work systems. We begin with equity in program development. States, local partnerships, and school systems must plan their school-to-work systems and component programs, from the outset, to address the needs of youth with disabilities. Youth with disabilities must be seen and treated as part of the core constituency of the systems and programs designed for all students. This case study, like those in the following chapters, is based upon actual experience.

Case Study

IEP meetings and program admission dates result in denial of services.

A school system operates five programs as part of its school-to-work system, based in three different high schools. The school system also offers a number of other special and alternative high school programs. Students are admitted to all programs on an interest-only basis. If there are too many applicants for a particular program, a lottery is held. In February, eighth-grade students submit a single application indicating their top three preferences for high school placement and are notified of their placement by June. IEP meetings for the following school year are ordinarily held in April and May. As a result, IEPs often do not reflect the student's choice of school-to-work program, and do not include the goals, specialized instruction, related and supplementary services, and accommodations the student will need to succeed. Since IEP teams do not meet during the summer, many students enter school in September without the educational supports they may need to learn effectively. It is often months into the school year before IEP teams convene to address student needs.

Staff involved in IEPs lack knowledge of the school-to-work program.

In addition, IEP teams at both the middle school and high school levels often do not include staff knowledgeable about the curriculum, expectations, and course methodology of the school-to-work learning options. At the high schools, IEP development is the responsibility of the separate special education department, as the school-to-work programs do not have special educators or related services personnel. Thus, IEPs often do not reflect school-to-work participants' learning needs. The special education staff also lack knowledge in the content areas taught in the school-to-work programs. For example, there is no staff member with sufficient understanding of computer programming to develop strategies for teaching this subject to students with specific learning disabilities in the communications technology program.

Lack of staff limit the number of students to be served.

For the coming school year, the school system has plans to hire one full-time special educator to serve students participating in school-to-work learning opportunities in each of the three high schools. These three new staff members will coordinate IEP development and support students in the classroom and at work-based learning sites. The system has determined that each staff member can effectively serve 10 students. Therefore, enrollment of students with disabilities will be limited to a total of 30.

Legal, Policy, and Practice Implications

The problems illustrate the consequences of failing to infuse equity into program development.

The problems this school district now faces illustrate the consequences of failing to infuse equity into program development. We assume that the system's five programs are the kind of high quality programs discussed in chapter 2. The district here recognized from the start the need to "include" students with disabilities in these programs — allowing them at first to apply and enroll on the same basis as their nondisabled peers — but allowed the programs to evolve in a way that denies students equal opportunity once enrolled. These facts raise at least the following legal, policy, and practice issues.

Lack of Coordination Between Program Selection and IEP Development

Coordinating programs promotes compliance.

Because the schedule for determining school-to-work program placement is not coordinated with the schedule for developing IEPs, students begin the school year without IEPs that address their needs in the school-to-work program — and, therefore, without the supports and accommodations they need to succeed. The School-to-Work Act is clear that programs are intended for all students. If students with disabilities are to participate in a meaningful way, from the outset, there must be coordination between the school-to-work programming process and the IEP development process.[1] Similarly, the Perkins Act requires joint planning and coordination with other federal programs, such as IDEA.[2]

Students start the year without appropriate IEPs.

Here, the legally mandated coordination has not occurred. As a result, students spend months without IEPs that address their learning needs in the program they actually attend. Lacking the services that appropriate IEPs would provide, they are denied the opportunity to participate fully and learn effectively in school-to-work programs.

§504, ADA, and OCR Guidelines are violated.

This lack of coordination causes violations of §504 and the ADA as well. Students with disabilities begin the school year at a disadvantage because their needs are not being met. The educational programming and services they are provided in the school-to-work programs are "not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement" as those provided their peers.[3] Students with disabilities also lack the "related aids or services that assure an appropriate education," contrary to the OCR Guidelines.[4]

Failure to coordinate scheduling causes additional civil rights violations.

The lack of scheduling coordination between the school-to-work assignment process and IEP development creates at least two other legal problems. First, as discussed in chapter 3, the civil rights laws prohibit school systems and local partnerships from using "methods of administration" that "substantially impair" the objectives of the program for students with disabilities.[5] The uncoordinated schedule here is such a method. It causes students to go for months without the supports they need to learn effectively what the school-to-work programs aim to teach — thus "substantially impairing" the objectives of the programs for those students. Second, students begin the school year with IEPs that are not geared toward the program they are enrolled in and the curriculum they are pursuing. This violates the requirement that IEPs be in effect at the beginning of the school year.[6]

The disconnect between the school-to-work program that students are actually attending and their IEPs has profound educational consequences. Annual IEP goals and intermediate benchmarks reflect the wrong educational programming, making them useless for assessing student progress in the school-to-work program. The specialized instruction, supports, and other services in the IEP, designed for a different program with a different curriculum and different methodology, will not promote learning in the school-to-work program. This lack of alignment will deny students the opportunity to learn the content of the school-to-work curriculum, including the state educational standards that are part of it, as well as a free appropriate public education.

The Wall Between School-to-Work and "Special Education"

The separation between the special education department and the school-to-work programs has ongoing negative effects on students.

The separation between the special education department and the school-to-work programs in this case study has ongoing negative effects on students. Even when IEP teams reconvene to address the needs of students now known to be enrolled in a school-to-work program, they lack sufficient information about school-to-work curriculum, methodology, and expectations to devise appropriate supports. Special educators on teams are not knowledgeable about the content areas taught in the school-to-work programs; they cannot design instructional strategies for teaching content they do not fully comprehend. It also appears that teachers involved in the school-to-work program do not participate in IEP development, and so there is minimal opportunity for cross-fertilization.

IEP team composition is a problem.

This situation also results in an unacceptable level of coordination between school-to-work, Perkins, and IDEA programs (see above). In addition, as a matter of law and policy, the composition of the IEP teams is a problem. Missing from the IEP team is a school district representative who has both expertise in designing specialized instruction for students with disabilities and knowledge about the curriculum used in the school-to-work programs — a legal requirement.[7]

Cross-fertilization is precluded.

In addition, IEP teams must include at least one of the student's "regular," as opposed to "special," education teachers.[8] The cross-fertilization this fosters is essential to developing the instructional strategies, services, and supports for "regular" teachers needed for successful inclusion of students with disabilities in school-to-work programs. This does not appear to be happening here, as school-to-work faculty do not participate in IEP development, yet are responsible for implementation of these IEPs.

Students' needs remain unmet, contrary to §504 and ADA.

Just as noted above in regard to schedule coordination, the rigid separation between special education and school-to-work staff means that student needs are not going to be met even when IEP meetings are reconvened. As a result, students are effectively denied meaningful participation. The educational programming and services that students with disabilities receive in the school-to-work programs are "not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement" as those provided their peers. Students with disabilities thus become victims of discrimination, in violation of §504 and the ADA.[9] And students may still lack the "related aids or services that assure an appropriate education," contrary to the OCR Guidelines.[10]

The rigid separation between departments and staff leads to additional violations.

The virtual wall between special educators and school-to-work staff is likely to be a source of legal claims by students with disabilities for two more reasons. The wall is, in effect, an organizational structure that makes it impossible to develop appropriate plans for school-to-work students with disabilities. In this case study, special educators on IEP teams do not know enough about the school-to-work program or the content areas of the school-to-work curriculum to design appropriate instructional strategies and supports. School-to-work staff do not take part in IEP development. No other arrangements are in place for bringing together the necessary knowledge and expertise. The rigid separation between departments and staff is another "method of administration" that "substantially impairs" the objectives of the school program for students with disabilities, contrary to the civil rights laws.[11]

A Structural Solution?

The school district correctly realized that it needed to better serve school-to-work students with disabilities. However, the solution it chose — hiring one special educator for each of the three high schools — is inadequate to address the systemic, structural problems discussed above.

The plan for hiring additional staff will not be enough to solve the problems.

The school system apparently recognized that it was problematic that the special education staff lacked sufficient knowledge to develop IEPs that would reflect the learning needs of students participating in school-to-work programs. However, the hiring of one special educator for each of the high schools still does not resolve the district's legal, policy, and practice problems.

While having a staff person within the school-to-work programs to coordinate IEPs is a positive development, the lack of scheduling coordination between program assignment and IEP development remains. The new staff person will not be able to ensure that students with disabilities receive the support services needed to succeed in school-to-work programs unless IEP development occurs *after* students are notified of their placement into a school-to-work program. Without such change, students will continue to begin the school year without appropriate IEPs.

The new staff cannot ensure that students get the support services needed unless IEPs are developed after students are notified of their placement into a school-to-work program.

The problem with IEP team expertise apparently remains. IEP teams must include individuals knowledgeable about the school-to-work curriculum and able to design instructional modifications to deliver the content of the curriculum to students with diverse disabilities and learning needs. Does the district intend that these new staff members ensure that IEP teams have the requisite expertise? That they have the authority to do so? Is such expertise available in the district? How will it be obtained? Does the wall between the special education department and the school-to-work programs remain?

IEP teams remain without individuals knowledgeable about the school-to-work curriculum.

It is highly unlikely, if not impossible, that any one of the new special educators will have all of the qualifications and expertise required to effectively serve students with disabilities and afford them the meaningful opportunities to learn that law and sound policy require.

It is unlikely that any of the new special educators will have all the qualifications, expertise, and time required to fix these programs.

To be the effective sole solution to the problems in their respective schools, each one of these individuals would need to be qualified to —

- Comprehend the content of school- and work-based components of the school-to-work curriculum
- Understand the content of the subjects included in the state standards set for all students
- Devise appropriate instructional strategies for teaching all of this content to a wide range of students with disabilities, with a wide range of learning styles and needs
- Assist and support "regular" academic and occupational educators in teaching their students with disabilities
- Instruct students himself/herself
- Bring state-of-the-art practices to all of these tasks, and be prepared to disseminate them to others[12]

These are Herculean expectations.

The state has an obligation to provide specialized training and support for teachers, counselors, and others.

Under the School-to-Work Act, the state has an obligation to provide training for teachers, counselors, and others that includes specialized training and support for counseling individuals with disabilities for high-skill, high-wage careers in nontraditional employment.[13] Thus, it may not be sufficient for only one staff person to have training that is relevant to the participation of students with disabilities in school-to-work programs.

The district has not made plans to develop a pool of knowledgeable personnel equipped to work with youth with disabilities.

The district has not made plans to develop a pool of knowledgeable personnel equipped to work effectively with youth with disabilities in its school-to-work programs. It seems that the state education agency charged with overall supervision of the school-to-work system has not done so either — at least not in relation to this local district and partnership. As a *policy* matter, this means that the district will never arrive at a point where programs are integrated and coordinated, and all youth receive meaningful opportunities to learn in school-to-work programs. As a *legal* matter, IDEA requires each state to implement a "comprehensive system of personnel development" which must, among other things, address the need for pre-service and in-service preparation to ensure that all of those who work with students with disabilities — special, regular, and vocational educators included — have the skills and knowledge necessary to meet the needs of youth with disabilities.[14]

Limit on Number of Participating Students

Limiting the number of students with disabilities who can participate in the school-to-work programs violates both the School-to-Work and Perkins Acts.

The district's solution has further, significant legal and policy implications. The decision to limit the number of students with disabilities who can participate in the school-to-work programs (contrary to the open choice policy for all other students) contravenes both the School-to-Work and Perkins Acts. Again, the school-to-work legislation makes it clear that school-to-work programs are to be designed to serve all students. Further, both the School-to-Work and Perkins Acts require equal access for students with disabilities. Limiting the number of students with disabilities who can participate does not comport with these mandates.

Perkins requires the school system to identify and plan to overcome barriers.

In addition, as discussed in chapters 3 and 8, the Perkins Act requires the school system to identify and adopt strategies to overcome any barriers resulting in lower rates of access to vocational education programs.[15] Here, the school system has developed a system that limits the number of students with disabilities who can participate in the program, thereby lowering their rate of access to the programs. This response to the problem is not acceptable and the school system must come up with a strategy that will not have this negative impact on the participation rate of youth with disabilities.

The ceiling is discriminatory.

Setting such a ceiling is also discriminatory. First, some students will be excluded from school-to-work opportunities simply because they have a disability. Second, the limit sets up a discriminatory admission policy: whereas students without disabilities can enroll simply by indicating their interest and, when space is at a premium, winning the lottery, students with disabilities who do the same may nonetheless be refused admission. The ceiling thus denies, on the basis of disability, the opportunity to participate, and affords students with disabilities an opportunity to participate that is not equal to the opportunity given their nondisabled peers. The civil rights laws prohibit this.[16] The ceiling also violates the OCR Vocational Education Guidelines, which prohibit programs from excluding students with disabilities because of their need for related aids and services and/or modifications in the manner in which courses are offered.[17]

Depending upon its overall resource allocation, the district's decision to make such limited funds available for supporting students with disabilities and coordinating "special education" and school-to-work may also be "a method of allocating funds that has the effect of discriminating on the basis of handicap," also prohibited by the guidelines.[18]

Resource allocation must be examined.

Finally, as further discussed in chapter 8, Perkins requires the state to conduct an assessment of all vocational programs carried out with Perkins funds that examines (among other things) how well the needs of special-population students are being met.[19] In conducting the assessment of this program, the state would likely determine that the school system was not meeting the needs of students with disabilities.

Required state assessment is likely to find student needs unmet.

• • • • • • • • • • • • • • •

Infusing equity into system planning and program development from the start can help avoid the pitfalls illustrated by this case study and ensure that all students have equitable opportunities to learn. The legal considerations discussed above call for as much, as do sound educational policy and practice.

Notes to Chapter 4

1. Under the School-to-Work Act, the school-to-work program in this school system must be coordinated with programs under the Individuals with Disabilities Education Act and the Rehabilitation Act of 1973. See 20 U.S.C. §6143(d)(6)(H) and (K).
2. Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998, Pub. L. No. 105-332, 112 Stat. 3076 (October 31, 1998) (hereinafter "Pub. L. 105-332"), sec. 1, §122(c)(16), 112 Stat. at 3105 (to be codified at 20 U.S.C. §2342(c)(16)).
3. 28 C.F.R. §35.130(b)(iii); 34 C.F.R. §104.4(b)(1)(iii), (b)(2); 29 C.F.R. §32.4(b)(1)(iii), (b)(2).
4. OCR Voc. Ed. Guidelines, 34 C.F.R. part 100, App. B, ¶IV-N. *See* also 34 C.F.R. §104.33(b) (§504 regulations require public school programs to provide regular or special education and related services designed to meet the individual needs of students with disabilities and other students who qualify on the basis of disability).
5. 34 C.F.R. §104.4(b)(4); 29 C.F.R. §32.4(b)(4); 28 C.F.R. §35.130(b)(3).
6. 20 U.S.C. §1414(d)(2).
7. 20 U.S.C. §1414(d)(B)(iv). This provision requires IEP teams to include a representative of the school district who is qualified to provide, or supervise the provision of, specially designed instruction to meet the needs of children with disabilities and who is knowledgeable about the "general curriculum" and district resources. For students enrolled in School-to-Work Act programs, the "general" curriculum includes the curriculum adopted for all students in that program.
8. 20 U.S.C. §1414(d)(1)(B)(ii).
9. 28 C.F.R. §35.130(b)(iii); 29 C.F.R. §32.4(b)(1)(iii), (b)(2); 34 C.F.R. §104.4(b)(1)(iii), (b)(2).
10. OCR Voc. Ed. Guidelines, 34 C.F.R. part 100, App. B, ¶IV-N. See also 34 C.F.R. §104.33(b) (§504 regulations require public school programs to provide regular or special education and related services designed to meet the individual needs of students with disabilities as well as the needs of nondisabled students).
11. 34 C.F.R. §104.4(b)(4); 29 C.F.R. §32.4(b)(4); 28 C.F.R. §35.130(b)(3).
12. IDEA requires states to acquire and disseminate significant knowledge derived from educational research and other sources to teachers, administrators, school board members, and related services personnel, and to adopt, when appropriate, promising practices, materials, and technology. See 20 U.S.C. §1412(a)(14), incorporating by reference 20 U.S.C. §1453(c)(3)(D)(vii). Local school systems must do the same. 20 U.S.C. §1413(a)(3)(A) (local educational agencies must ensure that all personnel necessary to carry out this part are appropriately and adequately prepared, consistent with the requirements of section 1453(c)(3)(D)). See also *Timothy W., supra*, 875 F.2d at 975 ("[t]he law explicitly recognizes . . . that educational methodologies are not static, but are constantly evolving and improving. It is the school district's responsibility to avail itself of these new approaches in providing an education program geared to each child's individual needs").

13. 20 U.S.C. §6143(7).
14. 20 U.S.C. §§1412(a)(14), 1453(c)(3)(D).
15. Pub. L. 105-332, sec. 1, §134(b)(7)(A), 112 Stat. at 3115 (to be codified at 20 U.S.C. §2354 (b)(7)(A)).
16. 34 C.F.R. §104.4(b)(i), (ii); 29 C.F.R. §32.4(b)(i), (ii); 28 C.F.R. §35.130(b)(1)(i), (ii).
17. OCR Voc. Ed. Guidelines, 34 C.F.R. part 100, App. B, ¶IV-N.
18. OCR Voc. Ed. Guidelines, ¶III-B.
19. Pub. L. 105-332, sec. 1, §124(b)(1), 112 Stat. at 3107 (to be codified at 20 U.S.C. §2344(b)(1)).

Purpose of Chapter —
To illustrate through a case study the legal requirements regarding equity in entrance criteria for school-based learning, along with their policy and practice implications.

Chapter 5

Equity in Entrance Criteria: School-Based Learning

States and school systems must carefully scrutinize entrance criteria for school-based learning components to ensure that they are truly essential to participation in the particular program and that they do not have the effect of discriminating against students with disabilities. In addition, entrance criteria may have to be modified for individual students, based upon their needs and abilities and the nature of particular programs. These issues should be addressed systemically in system and program design and as part of regular reviews of program participation and outcomes. This case study examines one district's handling of entrance criteria.

Case Study

A Hotel and Restaurant Academy uses a reading test to screen applicants.

A school district operates two food service programs. The Food Preparation Program teaches students how to cut vegetables, make simple recipes, and serve food. Some graduates work in cafeterias and restaurant kitchens. In the other program, the Hotel and Restaurant Academy, students learn how to manage restaurants and hotels. Students learn to keep accounts, order supplies, schedule work, and cater events with sophisticated menus. The Hotel and Restaurant Academy selects students based on reading level, as measured by standardized tests. This year, applicants to the Hotel and Restaurant Academy included a number of students with disabilities, among them a student with a specific learning disability, a student who is deaf and whose primary language is American Sign Language, and a student who has a mild cognitive impairment. None of the applicants with disabilities had the requisite reading test score, and all were rejected by the academy on that basis. It was suggested that they enroll in the Food Preparation Program instead.

Legal, Policy, and Practice Implications

The reading score requirement raises serious legal, policy, and practice concerns.

This district faces issues that, ideally, should have been anticipated, planned for, and avoided during program development. The consequences of the minimum reading score requirement and the district's response to date, raise serious legal, policy, and practice concerns. Chief among them are the low participation rate of students with disabilities in the Hotel and Restaurant Academy; the differences in quality between the academy and the Food Preparation Program into which students with disabilities apparently are being steered; and the apparent discriminatory effect the reading score is having on students with disabilities and, presumably, students with and without disabilities who are academically disadvantaged in reading.

Duty to Examine the Impact of the Reading Score Requirement on Student Access

The School-to-Work and Perkins Acts both require that students with disabilities have equal access.

The School-to-Work Act and Perkins Act both require that the partnership examine the effect of this reading score requirement on students with disabilities. The School-to-Work Act is clear that programs must provide *all* students with equal access to the full range of program components and related activities. The state's application for the implementation grant will include a description of how the state will ensure opportunities to students with disabilities.[1] Under Perkins, districts must provide equal access for students with disabilities. Along with equal access, districts cannot discriminate against students with disabilities on the basis of their status as members of special populations.[2]

The reading score requirement has denied access to all of this year's applicants, including students with at least three different kinds of disabilities. This indicates that the school-to-work program designed by the partnership is not available and accessible to all students. Accordingly, the partnership must reevaluate this admission criterion for the Hotel and Restaurant Academy to determine whether students with disabilities have equal access and opportunity to enroll in the program.

Finally, the reading score requirement denies access to members of another "special population" protected by Perkins: "individuals with other barriers to educational achievement,"[3] in this case weak skills in reading. As discussed below, the reading score requirement may be invalid on this basis alone.

Differences in Quality Between Hotel and Restaurant Academy and Food Preparation Program

The two food programs differ in quality.

The Hotel and Restaurant Academy and the Food Preparation Program differ vastly in their quality. These differences have legal and policy implications under both the career-development laws and the civil rights laws.

The food preparation program teaches low levels of skills and offers limited employment possibilities.

While the Hotel and Restaurant Academy provides students with a range of learning opportunities focused on the general management of restaurants and hotels, the Food Preparation Program merely teaches students how to cut vegetables, make simple recipes, and serve food; in short, the Food Preparation Program tracks students for low-wage, low-skill jobs, while the Hotel and Restaurant Academy prepares students for higher-wage, higher-skill employment opportunities. Further, the Hotel and Restaurant Academy provides students with a background that will enable them to hold a variety of different types of jobs, while the Food Preparation Program prepares students to enter only a narrowly-defined occupation. It also appears that there may be differences in the academic content and standards of the two programs.

The School-to-Work and Perkins Acts require that students with disabilities have strong experience in and understanding of all aspects of an industry.

In addition, and as discussed in chapter 2, under the School-to-Work Act, students with disabilities are to be provided with an opportunity to complete career majors.[4] The definition of "career major" includes providing students with strong experience in and understanding of all aspects of the industry the students are planning to enter.[5] The Perkins Act similarly calls for students to be provided with strong experience in and understanding of all aspects of the industry. The Hotel and Restaurant Academy appears to be designed to provide this experience and understanding. The Food Preparation Program is not.

The Food Preparation Program violates both quality and equity criteria of School-to-Work and Perkins Acts.

For all of the above reasons, the Food Preparation Program is an unacceptable alternative to the Hotel and Restaurant Academy. Students with disabilities are being excluded from a program (i.e., the Hotel and Restaurant Academy) that meets the quality criteria delineated in the career-development laws and being steered instead to a program that does not. This contravenes the quality and equity mandates of the School-to-Work Act, as well as those of Perkins.

§504 and the ADA may also be violated.

This situation likely gives rise to claims of illegal discrimination under the civil rights laws as well. By excluding students with disabilities from the Academy and steering them into an inferior program, the district is channeling them into a lower educational track that limits their current learning as well as their future postsecondary and employment opportunities. The Food Preparation Program does not afford an equal opportunity to obtain the same results, gain the same benefits, and reach the same level of achievement as does the Hotel and Restaurant Academy. The district's practices may violate §504 and the ADA for this reason alone.[6]

Using the Reading Cutoff Score as a General Requirement for All Students

Can a reading cutoff score be used?

There are serious questions as to whether the reading cutoff score can be used at all as a general admission requirement for the Hotel and Restaurant Academy. In addition, even if the partnership may legally use it as a general standard, it may be required to waive it on a case-by-case basis for individual students with disabilities. This section explores the potential legal problems with using the cutoff score at all. The next section looks at individual waivers.

As discussed in chapters 1 and 3, the equity provisions of the Perkins Act apply to all students who are members of any of the six "special populations" identified in the act. Under these provisions, special population students must be afforded equal access, and states and school systems must plan to meet their needs in high quality programs. Moreover, programs may not discriminate on the basis of special population status.

In addition to protecting as members of "special populations" individuals who have disabilities, are from economically disadvantaged families, are preparing for nontraditional employment, are single parents, or are displaced homemakers, Perkins protects individuals "with other barriers to educational achievement."[7] The law gives limited-English proficiency as an example of such an "other barrier." Poor reading skills would certainly be another barrier to educational achievement. The use of the reading cutoff score as a general admission requirement here likely constitutes impermissible per se discrimination against youth facing this barrier. If so, it cannot be used as an entrance requirement, regardless of whether or not the reading requirement would be permissible under the disability discrimination laws discussed below.

Even if the reading requirement were permissible despite its impact on educationally disadvantaged youth, it would still be problematic under §504 and the ADA. Further, §504 and ADA considerations would apply regardless of whether the program uses Perkins Act funds.

§504 and the ADA may be violated since youth with disabilities are screened out.

The facts here strongly suggest that the minimum reading score tends to screen out youth with disabilities. It has certainly screened out the three individual students mentioned. It may in fact also tend to screen out entire *groups* of students with disabilities: for example, those with specific learning disabilities that affect reading skills and the processing of written information.

If the test score tends to screen out students with disabilities, the civil rights laws (§504 and the ADA) prohibit its use unless it is necessary for participation in the Hotel and Restaurant Academy.[8] If the cutoff disproportionately excludes youth with particular types of disabilities, the program cannot use it unless —

- The cutoff score has been validated as essential to participation, and
- There is no other equally valid entrance criterion that does not have this discriminatory effect.[9]

These rules apply to all admission criteria, including (but not limited to) past academic performance, record of disciplinary problems, counselors' approval, teacher recommendations, and interest inventories, as well as standardized tests.[10]

Is the reading score requirement here essential to participation in the Hotel and Restaurant Academy? This question cannot be answered without first knowing the reason for the requirement — a fact not revealed in the case study. For example —

Why is the reading cutoff score being used?

- Is the district trying to limit the academy to only higher performing students in order to demonstrate "success" in attaining high quality student outcomes?
- Is the district limiting entry to higher performing students in order to more easily attract employers who will provide work-based learning experiences?
- Is it using reading scores as a convenient way to select students for a high-demand program with few openings?

None of these rationale will save the reading score requirement under the civil rights laws. While they may serve certain interests of the school, they provide no basis for concluding that the reading score is essential to students' participation in the academy or the district's ability to provide the program.

Is attaining the tested reading score essential to succeed in the program?

Is the tested reading score being used as a proxy for the ability to grasp the content of the Hotel and Restaurant Academy curriculum? Is this an educationally sound assumption, given the variety of teaching methods used to deliver the curriculum, including the requirements for integration of academic and vocational instruction? Further, is the reading test really valid for this purpose (see below)?

Is the purpose of the cutoff score to ensure that students will be able to understand written course materials? What reading test is being used, and what is the cutoff score? Are they aligned to the kind of materials actually used in the academy? If not, the cutoff score is not an educationally sound prerequisite for any student — with or without a disability.

Do the reading test and cutoff score reflect the type and level of reading required in the program?

If so, how do materials for academy courses compare with materials for other classes or programs in which there is no minimum test score requirement? Do the academy materials really require a higher measured reading level than the others? If not, what is the justification for applying this different standard to academy applicants? If so, given the details of the curriculum and the various instructional practices used in academy classes, is the ability to read class texts without difficulty truly necessary to be successful in the program? Are there ways to compensate for reading problems such as providing reading skill development connected to course content and materials, modifying the way in which written materials and other kinds of classroom learning reinforce one another, providing some material in an alternative way (for example, video), or providing individual assistance?[11]

Could students with disabilities succeed in the program with alternative materials or methods of teaching, or other supports?

These are some of the questions that go to the issue of whether the reading score requirement is essential for participation in the Hotel and Restaurant Academy. It is important to remember that, as discussed in chapter 3, if the cutoff score disproportionately excludes students with disabilities, it cannot be used unless it has been validated as essential. This means that it must be proved valid as essential for participation even with the full array of special education supports, related services, reasonable accommodations, modifications, supplementary aids and services, and auxiliary aids and services, to which students with disabilities may be entitled under §504, the ADA, IDEA, the School-to-Work Act, and the Perkins Act. Validation is an arduous undertaking that can only be accomplished by very carefully constructed and presented evidence.

Has the reading score been validated as essential to participation in the academy?

Is this true even if all the legally required supports and modifications are provided?

This is a very hard standard to meet. Unless the cutoff score is so low that students scoring below it cannot participate in the academy even with special education supports, reasonable accommodations, modifications, etc., the partnership would be well advised to stop using it.

Individual Waivers of the Minimum Reading Score Requirement and Support Services

Civil rights laws may require waiving the reading score.

Even if the minimum reading score may be legally used in general, the civil rights laws require the district to modify or waive it for some students with disabilities on a case-by-case basis.[12] In some cases, this may mean simply waiving it (or any other admission requirement). In others, it may mean waiving it and providing services and supports to allow the student to succeed in the academy despite a low reading score.[13]

Decisions about when and how to waive (or modify) an otherwise proper entrance requirement require careful consideration of —

Factors to consider in deciding whether to waive an entrance requirement.

- The purpose of the requirement
- The individual student facing exclusion because of the requirement
- Alternative strategies for fulfilling the purpose of the requirement in regard to that student

Will the entrance requirement, if applied, actually serve its purpose?

A key question in deciding whether it would be fair under the civil rights laws to apply an admission requirement to a particular student is whether the requirement, if applied, will in fact serve its purpose. If the purpose of the cutoff score here is to ensure that students can work successfully with written course materials, is it actually serving this purpose for each of the three students described in the case study? Or, rather, is it simply reflecting back their disabilities?[14] For example, it may be that the deaf student whose primary language is American Sign Language simply reads slowly because English is her second language. This may have resulted in a lowered score on a standardized test. Speed will not pose the same problems when class work and homework require reading. By excluding her anyway, the cutoff score is not serving its own purpose. It should be waived.

Does the entrance requirement take into account how the student will fare in the program if legally-required supports and modifications are provided?

Or, it may be that her low score reflects difficulties that will impede her ability to use written course materials, learn effectively, and attain outcomes desired for all students in the Hotel and Restaurant Academy. If this is the case, the cutoff score still is not serving its own purpose, as it does not provide information about how she will do if provided the special education services and other supports and modifications §504, the ADA, IDEA, the School-to-Work Act, and the Perkins Act require the school district to provide.

The same may also be true for the two other students excluded from the academy. For the student with a specific learning disability, the reading test score simply reflects back his disability: problems in the psychological processes used in reading, resulting in a disparity between his intellectual ability and actual achievement in reading skills and comprehension.[15] It says nothing about how he will fare in the Hotel and Restaurant Academy if provided with mandated educational services and supports. Similarly, the test score reflects back the third student's cognitive impairment. It provides no information about her ability to learn in the academy if provided appropriate individualized services, including modifications in methods of instruction and curriculum delivery.

If the cutoff score is not serving its own purpose for these students, it should not be applied to them. The matter does not end there, however, if the students' scores do in fact reflect difficulties that will impair learning and mastery of the Hotel and Restaurant Academy curriculum.

As noted above, for such students modifying a school-to-work admission standard includes providing services geared to the purpose behind the requirement. Here, the purpose of the reading score is to ensure that students can learn effectively in light of the written course materials ordinarily used. Each of the three students here should be provided the services and supports they need to do so.

The district must analyze the true purpose of the reading test and provide the services that students with disabilities need to succeed in the program.

In devising alternative strategies for addressing the true purpose of the reading score requirement, school staff should draw on the full range of services and supports required to be offered under IDEA, §504, the ADA and the Perkins Act, including specialized instruction, related aids and services, modifications to methods of instruction and curriculum delivery, assistive technology, and auxiliary aids and services.

The specifics of any strategy will, of course, depend upon the individual student's needs. The individualized planning process that schools use under IDEA is ideal for making real this aspect of equity in school-to-work programs. Suggestions for using IDEA as a tool for equity in admission to school-to-work programs, and in other school-to-work components, are discussed in chapter 7.

Notes to Chapter 5

1. 20 U.S.C. §6143(d)(15).
2. See discussion in chapter 1, *supra*.
3. Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998, Pub. L. No. 105-332, 112 Stat. 3076 (October 31, 1998) (hereinafter "Pub. L. 105-332"), sec. 1, §3(23)(F), 112 Stat. at 3080-81 (to be codified at 20 U.S.C. §2302(23)(F)).
4. 20 U.S.C. §6111(2).
5. 20 U.S.C. §6103(5)(D).
6. 28 C.F.R. §35.130(b)(iii); 34 C.F.R. §104.4(b)(1)(iii), (b)(2).
7. Pub. L. 105-332, sec. 1, §3(23), 112 Stat. at 3080-81 (to be codified at 20 U.S.C. §2302(23)).
8. 28 C.F.R. §35.130(b)(8).
9. OCR Voc. Ed. Guidelines, 34 C.F.R. part 100, App. B, ¶IV-K. See also 34 C.F.R. §100.4(b)(4) and 29 C.F.R. §32.4(b)(4) (Departments of Education and Labor §504 regulation prohibiting "criteria and methods of administration" that have the effect of discriminating on the basis of disability); 28 C.F.R. §35.130(b)(3)(i) (ADA regulation doing same).
10. OCR Voc. Ed. Guidelines, 34 C.F.R. part 100, App. b, ¶IV-K; 28 C.F.R. §35.130(b)(8).
11. Note that the School-to-Work Act requires school-based learning components to include problem solving with students to identify their academic strengths, weaknesses, and progress, and the need for additional learning opportunities to master core academic skills. 20 U.S.C. §6112(5).
12. 28 C.F.R. §35.130(b)(7) (requiring reasonable modifications in policies, practices, or procedures when necessary to avoid discrimination, unless change would "fundamentally alter the nature" of the program); OCR Voc. Ed. Guidelines, 34 C.F.R. part 100, App. B, ¶IV-N (while academic requirements that are truly "essential" are not discriminatory, they must be adjusted where possible to the needs of individual students with disabilities).
13. Under the ADA, a youth with a disability is "qualified" to participate in a particular program if he or she meets the "essential requirements" for participation *with or without* reasonable modifications to rules, policies, or practices; the removal of architectural, communication, or transportation barriers; or the provision of auxiliary aids and services. 28 C.F.R. §35.104. The §504 regulations and OCR Guidelines require secondary school programs to provide students with disabilities the regular or specialized instruction and related aids and services they need in order to learn in "regular" vocational education programs to the maximum extent feasible. 34 C.F.R. §§104.33(b), 104.34(a); OCR Voc. Ed. Guidelines, 34 C.F.R. part 100, App. B, ¶VI-A. The OCR Guidelines stress that students may not be denied access to vocational education courses because of the need for related aids and services or auxiliary aids — and that if necessary, programs must, among other things, modify or adapt the manner in which the courses are offered. OCR Voc. Ed. Guidelines, 34 C.F.R. Part 100, App. B, ¶ IV-N.
14. *Cf.* 34 C.F.R. §104.35(b)(3).
15. 20 U.S.C. §1401(26); 34 C.F.R. §300.541(a)(2) (1997).

Purpose of Chapter —
To illustrate through a case study the legal requirements regarding equity in entrance criteria for work-based learning, along with their policy and practice implications.

Chapter 6

Equity in Entrance Criteria: Work-Based Learning

States and school systems must carefully scrutinize entrance criteria for work-based learning opportunities to ensure that they are truly essential to participation in the particular program, and that they do not have the effect of discriminating against students with disabilities. States and school systems must also ensure that employers and other work-based learning hosts (such as community organizations) do not discriminate. In addition, entrance criteria may have to be modified for individual students, based upon their needs and abilities and the nature of particular programs. These issues should be addressed systemically in system and program design, and as part of regular reviews of program participation and outcomes.

Case Study

This case study looks at equity issues in access to opportunities for work-based learning, in light of the School-to-Work Act, Perkins Act, Section 504, Title II of the ADA, and IDEA. A host of other laws may also apply when students engage in work-based learning.[1] Some of these explicitly address equity issues. For example, participating employers may be covered by, and students may have rights under, Title I of the ADA, which, as discussed in chapter 1, prohibits employment discrimination, and Title VII of the Civil Rights Act, which prohibits race, national origin, and gender discrimination in employment. Other laws, although not explicitly civil rights laws, may raise equity concerns nonetheless, such as when questions arise about whether the Fair Labor Standards Act applies to a particular youth with a disability.[2] In designing and implementing school-to-work systems and programs, policymakers, administrators, and educators need to be aware that any number of laws may apply to their efforts and seek legal assistance to learn about and plan for their requirements.

When choosing interns, employers do not select students with disabilities.

In an effort to encourage employer participation and to make the work-based learning experience as "real-world" as possible, this school-to-work program lets employers select high school students who will intern with them. Students develop resumés in class, and then present resumés and interview with employers. Looking at data from the first two years of the program, it is clear that most employers are not selecting students with disabilities. In response, the local partnership has set up a separate program specifically for students with disabilities to intern with a local university or public agency.

Legal and Policy Implications

Work-based learning programs have two obligations.

A program must —

1. Ensure that it does not discriminate — intentionally or unintentionally

2. Ensure that work-based learning hosts do not discriminate against its students

In developing school-to-work systems, state-level decision makers must ensure that youths with disabilities will have equal and meaningful access to the full range of high quality work-based learning opportunities to be created for all youth. Applications from local partnerships should not be approved unless they demonstrate that the partnership has planned for this. And meaningful access for all should be a focus of the state's ongoing oversight of the statewide system and the local programs that comprise it. In fact, the state plan for the school-to-work system must describe the manner in which the state will ensure effective and meaningful opportunities for *all* students to participate in school-to-work programs.[3]

Work-based learning programs have two broad equity obligations. First, a program must ensure that it does not discriminate — intentionally or unintentionally. Second, and equally important, the program must also ensure that work-based learning hosts do not discriminate against its students. This case study implicates both obligations.

Nonselection by Employers Denies Students Equal Access and Comparable Benefits

While work-based learning can take many different forms, in this case study students' work-based learning experience occurs with outside employers who select them based on their resumés and an interview. Regardless of the type of work-based learning experience offered, the School-to-Work Act requires that programs provide *all* students with equal access to the full range of program components, including work-based learning.[4] The fact that the employers are choosing the students for the work-based placement does not relieve the school-to-work program of its responsibility to provide equal access to students with disabilities.[5]

In this case study, the partnership running the school-to-work program must still provide equal access to students with disabilities even if employers are choosing the students for the work-based placement.

The same is true under the Perkins Act, which mandates equal access and nondiscrimination for members of special populations. Here, the process that has been designed to match students with internships excludes students with disabilities from participation in many work-based learning opportunities. This exclusion clearly does not meet the Perkins requirement of equitable participation.

Perkins also requires equitable participation.

The failure of these employers to select students with disabilities has further legal and policy ramifications. As a result of these employer choices, the school-to-work system is unable to offer students with disabilities the same range of internship opportunities available to their peers. Students with disabilities lack private sector opportunities, and also have a narrower range of careers and work settings with which to experiment. It is possible that they are being excluded from internship opportunities linked to their career majors, weakening the link between their school- and work-based learning. As a *legal* matter, all of this means that students with disabilities are not receiving comparable benefits under the school-to-work program — a violation of §504 and the ADA.[6] As a *policy* matter, it means that key purposes of the School-to-Work Act are being defeated for students with disabilities, and that their education and postsecondary options will suffer as a result.

Students with disabilities are not receiving comparable benefits under the school-to-work program in violation of §504 and the ADA.

Problems With the Partnership's Solution

The establishment of a separate program for students with disabilities offering internships at a university and public agencies is not a solution to the legal and policy issues raised here. First, this solution appears to limit students with disabilities to a particular type of employer and to a particular set of work-based experiences. Second, it is unclear that the work-based learning experiences that students with disabilities are being channeled into are of the same high quality as the other work-based learning experiences. The School-to-Work Act and Perkins Act access and quality problems remain.

Establishing a separate program for students with disabilities offering internships at a university and public agencies violates the Perkins and School-to-Work Acts.

Also, the partnership has chosen a solution that perpetuates the discrimination it is supposed to end. In addition to the School-to-Work and Perkins Acts problems, the denial of comparable benefits and services continues, and so, too, the civil rights violations. Students with disabilities still have a lesser range of viable internship options than do their peers. It is also unclear whether the separate program offers the same "real world" experience of presenting resumés and interviewing with employers — yet another potential violation of the right to comparable benefits and services.

Separate programs are not equal and violate civil rights laws.

The chosen solution also fails to address the possibility that youth with or without disabilities may be suffering illegal discrimination based upon other barriers to educational achievement that they may face. As discussed in

chapter 5, the special populations the Perkins Act protects include individuals with disabilities, those from economically disadvantaged families, those preparing for nontraditional employment, single parents, displaced homemakers, and individuals with "other barriers to educational achievement." Here, it may be that student resumés reflect low academic achievement resulting from such barriers, or that such information is emerging during interviews, or that low academic achievement related to the barriers is influencing employer choices in some other way that results in a denial of internship opportunities. Consistent with its obligations under Perkins, the program must identify and eliminate any such discrimination that may be occurring.

This "solution" also may be creating new kinds of discrimination. Rather than addressing directly the problems in the "regular" internship program, the partnership is channeling, or tracking, the victims of these problems into a separate program. This raises a host of new problems under §504 and the ADA. Under these laws —

Potential civil rights problems caused by the "solution."

- The partnership cannot exclude from the "regular" internship program those students who are able (with or without support services) to participate.[7] This includes steering them into the separate program for even benign, or well-intentioned, reasons.
- The partnership cannot operate a separate program for youth with disabilities unless it is necessary to provide them with benefits and services that are as effective as those other students receive.[8]
- Even if a separate program is permissible under these laws for some students, other youth able to participate still have a right to participate in the "regular" internship program.[9]
- Students must be placed in the "regular" secondary level internship program unless student needs cannot be met there, even with supplementary aids and services.[10]

Employers cannot be allowed to continue to discriminate in violation of civil rights laws.

Finally, the program's response here allows possible discrimination by employers to continue. Rather than finding out why most employers are not choosing students with disabilities, the program has sidestepped the issue, simply removing these students from the process. It has not addressed the possibility that employers may be discriminating against its students, unintentionally or intentionally. The program has a legal obligation to do so. It must determine whether any participating employers are discriminating, and if necessary divorce itself from the discriminating employer.[11] This is true whether employers discriminate on the basis of disability, as may be happening here, or on the basis of race, national origin, or gender.[12]

These obligations arise under the civil rights laws prohibiting disability, race, national origin, and gender discrimination. As noted above, the Perkins Act additionally requires the program to address and eliminate discrimination against students who are special population members by virtue of the barriers to educational achievement they face.

Why Are Students With Disabilities at a Disadvantage in the Intern Selection Process?

The internship program needs to be reformed to eliminate all of the above problems. The fact that the program itself offers youth with disabilities fewer, and qualitatively lesser, options must be addressed, as must the possibility that participating employers are discriminating. This is the legal responsibility of both the state and the local partnership (including the local education agency and the high school), under the career development laws as well as the civil rights laws.[13]

State and local partners must investigate possible discrimination.

The problem needs to be understood before it can be solved. The program did well to collect and review data on the experience of students with disabilities. But, further investigation needs to be done to understand why these students are at such a disadvantage in the intern selection process. Questions the program might explore include the following —

An investigation is necessary before the problem can be solved.

Questions to be Explored

Examples of issues to investigate.

- Where is the process breaking down for students with disabilities? Are they being selected for interviews after presenting resumés and then facing rejection, or are they being passed over from the start?
- If passed over from the start, what is it on their resumés that is causing problems? Do resumés reflect grades and other accomplishments in the school-based learning component? Are students with disabilities achieving less than their peers in their course work?
- Are they receiving the specialized instruction, related services, and supports they need to master the competencies and successfully complete the challenging projects expected of all students?
- Are grades appropriate information to be revealing for any student, with or without a disability? Are students being screened out because of the barriers to educational achievement that they face?
- How do potential employers become aware that a student has a disability? Do the resumés of students not getting interviews indicate that they have a disability? Are interviewers reacting to visible disabilities? Are students receiving guidance and counseling on how to deal with employer perceptions and attitudes about disability during interviews?
- Are participating employers aware that the program will provide the specialized instruction and supports students may need to learn well and function effectively during work-based learning, as required by the career-development laws and civil rights laws, including IDEA? Do they have any reason to believe that this may not be the case? Is there a process in place for consulting with employers to identify and develop the supports that students may need? Are employers aware of it?
- Are workplace mentors prepared to work successfully with students with disabilities? Under the School-to-Work Act, each student is to have such a mentor who, among other things, instructs the student, critiques student performance, challenges the student to do well, and works in consultation with classroom teachers and the employer.[14] Are workplace mentors providing the consultation and support that students may need from qualified personnel, if they themselves are not knowledgeable about strategies for instructing and supporting students with disabilities?

- Does the program work affirmatively with participating employers to alert them to issues of stereotyping, equal opportunity, nondiscrimination, and compliance with civil rights laws?
- Does the program ensure that, as a matter of course, IEP teams, bringing together the expertise of special education and school-to-work staff, devise appropriate instructional strategies and other needed supports for work-based learning? Do IEP goals and services reflect the desired outcomes of work-based learning? Do they include any specialized instruction and other services students might need to prepare them for work-based learning? For success in interviews?
- What "qualifications" are employers looking for, given that applicants are high school students with little, if any, work experience? Are they using criteria that are irrelevant in light of the educational purposes of work-based learning under the School-to-Work Act and the role the student will be playing at the work-based learning site?
- What role do school-site mentors play in the process? Under the School-to-Work Act, each student must be assigned a school-site mentor to act as his or her advocate.[15] An important (and required) connecting activity under the act is matching students with the work-based learning opportunities of employers.[16] Is simply having students present resumés and interview with employers consistent with this mandate? Is the current system a sound way for ensuring that work-based learning for any student, with or without a disability, is relevant to the student's career major, is integrated with academic and occupational school-based learning, and provides broad instruction in all aspects of the industry he or she is preparing to enter?[17]

Additional Policy Implications: Meaningful Work-Based Learning for All Students

Work-based experiences are crucial to school-to-work.

Ensuring that students with disabilities have equitable access to the work-based experiences made available through this program is particularly crucial given that work-based activities are an essential component of school-to-work systems. A recent study indicated that developing work-based activities is the top priority of most local partnerships running school-to-work programs.[18] Importantly, the study determined that workplace activities offered students through school are of higher quality than those that they find on their own.[19]

Be attuned to the quality of work experiences, even once students are accepted.

Here, the focus on simulating the "real world" hiring process appears to have taken priority over the need to ensure that all students have access to the school-to-work activity opportunities. Further investigation may reveal other problems. It may be that the students with disabilities are deprived of opportunities to participate in what may be higher quality work-based activities. Or, that students with disabilities are not given meaningful work experiences by the employer, even if they are permitted to participate in the programs. This may include denial of opportunities to gain strong experience in and understanding of all aspects of the industry, and/or tracking of students with disabilities into routinized work with little such educational value.

Be attuned to differences between employers and any differences in the way students are treated.

Given the focus by school-to-work systems on the development of work-based learning opportunities, state- and local-level actors must examine the entrance criteria and quality of work-based experiences to ensure that students with disabilities are not barred from opportunities that provide intellectual challenges and the acquisition of sophisticated skills. This includes not only being attuned to differences between employers, but to any differences in the way students are treated within particular work-based learning sites.

Notes to Chapter 6

1. For example, depending upon the circumstances, federal and state laws regarding occupational heath and safety, labor unions, minimum wage and overtime, and employment discrimination, among others, may come into play.
2. For a discussion of the Fair Labor Standards Act, see chapter 3.
3. 20 U.S.C. §6143(d)(13), (15).
4. 20 U.S.C. §6111(5).
5. When a law requires equal access, that access must be meaningful. Therefore, program developers will need to assess the barriers to student participation and design programs to eliminate those barriers and provide the services needed.
6. 34 C.F.R. §104.4(b)(i) - (iii); 29 C.F.R. §32.4(b)(i) - (iii); 28 C.F.R. §35.130(b)(1)(i), (ii), (b)(2); OCR Voc. Ed. Guidelines, 34 C.F.R. part 100, ¶VII-A.
7. 29 U.S.C. §794; 42 U.S.C. §12131(2); 34 C.F.R. §104.4(a), (b)(1)(i); 29 C.F.R. §32.4(a), (b)(1)(i); 28 C.F.R. §35.130(a), (b)(1)(i).
8. 34 C.F.R. §104.4(b)(1)(iv); 29 C.F.R. §32.4(b)(1)(iv); 28 C.F.R. §35.130(b)(iv).
9. 34 C.F.R. §104.4(b)(3); 29 C.F.R. §32.4(b)(3); 28 C.F.R. §35.130(b)(2).
10. OCR Voc. Ed. Guidelines, 34 C.F.R. part 100, App. B, ¶VI-A. See also 34 C.F.R. §104.34(a); 29 C.F.R. §32.4(d); 28 C.F.R. §35.130(d).
11. Commentary to OCR Voc. Ed. Guidelines, ¶56, 44 Fed. Reg. 17174 (March 21, 1979); 34 C.F.R. §104.4(b)(4); 29 C.F.R. §32.4(b)(4); 28 C.F.R. §35.130(b)(3).
12. Commentary to OCR Voc. Ed. Guidelines, ¶56, 44 Fed. Reg. 17174 (March 21, 1979); 20 U.S.C. §2328(a)(2).
13. See also 20 U.S.C. §1221 *et seq.* (General Educational Provisions Act, or "GEPA"); 34 C.F.R. §§76.700, 76.701 and 76.770 (Education Department General Administrative Regulations, implementing GEPA).
14. 20 U.S.C. §§6103(25), 6113(3).
15. 20 U.S.C. §§6103(18), 4114(2).
16. 20 U.S.C. §6114(1).
17. See 20 U.S.C. §6113.
18. Partners in Progress: Early Steps in Creating School-to-Work Systems, Executive Summary, April 1997, Mathematical Policy Research, Inc., p. 9.
19. *Id.* at 10.

Purpose of Chapter —
To explore how IDEA and school-to-work program components may be linked to ensure effective participation and high quality outcomes for youth with disabilities.

Chapter 7

Linkage With IDEA for Quality and Equity

The School-to-Work Act, Perkins Act, §504, and the ADA entitle youth with disabilities to enroll in the high quality programs designed for all youth, and to receive the supports, modifications, and accommodations they need for full participation. IDEA provides practical tools for fulfilling the responsibilities and making real the rights that these four laws create. Conversely, school-to-work systems and their component programs may be used to meet, in part, the transition planning and service requirements of IDEA.

Introduction

IDEA can be used to help implement other laws.

As discussed in previous chapters, the School-to-Work Act, Perkins Act, §504, and ADA independently require programs to provide support services and accommodations to ensure youth with disabilities meaningful participation and achievement in the high quality school-to-work programs discussed in chapter 2. This chapter examines how IDEA may be used to help accomplish what these other four laws require. It begins with a brief review of the pertinent independent rights and obligations created by the School-to-Work Act, Perkins Act, §504, and the ADA, followed by an explanation of the most pertinent provisions of IDEA. It then provides examples of how these IDEA components may be linked to the various components of school-to-work systems and programs — including career exploration and counseling, career major selection, school-based learning, work-based learning, ongoing student evaluation and problem solving, and transition to postsecondary education and training — to ensure effective participation and high quality outcomes for students.

Review of Independent Rights and Obligations Under the School-to-Work Act, Perkins Act, §504, and the ADA

The School-to-Work and Perkins Acts require equal and meaningful access.

As discussed in chapters 1 and 3, both the School-to-Work and Perkins Acts require equal, and therefore meaningful, access for youth with disabilities, as well as coordination and integration with programs under IDEA. Perkins also includes an explicit nondiscrimination mandate. To meet these obligations, programs must plan for the provision of the services and supports individual students will need to succeed.

§504 and the ADA mandate meaningful opportunities to learn in quality mainstream programs.

The §504 and ADA regulations mandate learning opportunities designed to enable students with disabilities to attain the same level of achievement as their peers, in good quality programs. They also require the provision of specialized instruction, related aids and services, modifications, auxiliary aids and devices, and other support services necessary for participation in "regular" education school-to-work programs. The OCR Guidelines underscore this point, barring exclusion from "regular" programs because of a need for related services, and requiring placement in the "regular" program with supplementary aids and services in most cases. Section 504 and the ADA also require accommodations in the form of changes in routine practices, policies, and procedures when necessary to avoid discrimination.

Key IDEA Provisions

The School-to-Work Act, Perkins, §504, and the ADA provide only sketchy guidance as to *how* to design the support services, modifications, and accommodations individual students need for meaningful participation and the high quality outcomes expected for all students. IDEA, however, already provides in detail for individualized planning and service design. IDEA provisions regarding evaluations, IEPs, and transition planning and services provide powerful tools for accomplishing what these other laws require.

IDEA provides tools for individualized planning and service design in school-to-work programs.

Educational Evaluations

As noted in chapter 1, individualized planning under IDEA begins with an individualized, comprehensive education evaluation. Each student must be evaluated before first receiving special education services, and reevaluated at least once every three years. Reevaluations must be done more often if a youth's needs so require, or if requested by a parent or teacher.[1] In addition, the regulations implementing §504 in elementary and secondary programs require a new evaluation before any significant change in educational placement.[2] Both laws require a reevaluation if a student's academic performance or behavior suddenly changes.[3]

Evaluations and reevaluations are required.

A. Purpose and Scope of Evaluations

The primary purpose of evaluations and reevaluations is to determine a student's particular educational needs and collect the information necessary to develop an IEP that will enable the student to attain the academic competencies all students are expected to master, and address other disability-related needs.[4] Schools must use a variety of assessment tools and strategies to gather relevant functional and developmental information about the student, including (among other things) the information necessary for —

List of purposes of IDEA evaluations.

- Understanding the student's current level of educational performance
- Understanding how disability affects learning in the regular education curriculum and the learning standards embodied therein (including, when relevant, "regular" school-to-work program curriculum)
- Determining the services and supports the student will need in order to meet the expectations set for all students in the regular curriculum
- Designing any specialized instruction and related services the student may need
- Making needed modifications to the content or method of delivery of the curriculum
- Determining the supplementary aids and services the student will need to learn effectively in "regular" education
- Determining what, if any, supports school personnel will require to enable the student to learn effectively in "regular" classes, and to master the regular curriculum
- Designing transition plans and services
- Addressing any other disability-related educational needs[5]

B. Coordination is the Key

When planned carefully and coordinated with a student's choice of school-to-work program, IDEA evaluations have the potential to gather a wealth of information key to ensuring that students have meaningful opportunities to learn the content of the curricula in the high quality programs required by the School-to-Work and Perkins Acts.

C. IDEA Amendments of 1997 Facilitate Coordination

Properly planned IDEA evaluations can yield important information about the needs of school-to-work students.

The 1997 amendments to IDEA provide a perfect mechanism for just this kind of planning and coordination. Under a new provision, the first step in all reevaluations is a review of existing information about the student by the IEP team (which includes the parent and often, as discussed below, the student) and other qualified professionals.[6]

Based upon its review, this group determines what kind of additional information is needed to determine (among other things) the student's current educational needs, including the services and supports he or she will need to meet the high academic standards set for all in the regular curriculum.[7] Evaluations necessary to develop that information are then performed.[8]

By including in the evaluation planning group individuals who are knowledgeable about school-to-work academic standards, the reevaluation can be designed to develop the information necessary to plan for the student's academic and service needs, and success, there.

Individualized Educational Programs

Drawing upon evaluation and other relevant information, school personnel working in conjunction with parents must annually develop an IEP for each student with a disability. The IEP must include all of the components discussed above in chapter 1.

A. Aligning IEPs With the School-to-Work Curriculum

Align IEPs with the student's choice of school-to-work program.

When a youth with a disability chooses to enroll in a school-to-work program, that program's high quality, integrated curriculum becomes part of the regular education curriculum for that student.[9] In addition to addressing other disability-related needs, then, the various IEP components must be aligned with the content that students in the program are expected to master and the outcomes all are expected to attain. Before and during IEP development, consideration must be given to the full range of supplementary aids and services that might be necessary to enable the youth to learn what is in the "regular" school-to-work program curriculum, in the "regular" program setting.[10]

B. State-of-the-Art Practices

Best practices must be incorporated.

As for all students, the IEPs of school-to-work participants must incorporate the state-of-the-art practices necessary to enable attainment of IEP goals and objectives and desired program outcomes. IDEA expressly requires states to acquire and disseminate significant knowledge from educational research and other sources to teachers, administrators, school board members, and related services personnel, and to adopt, when appropriate, promising practices, materials, and technology.[11] Local school districts must do the same.[12]

C. Periodic Review and Revisions

IEPs must be reviewed periodically and revised in light of student needs. Revisions must be made as needed to address —

- Any lack of expected progress in the regular curriculum, including the school-to-work program curriculum
- Any lack of expected progress towards the annual goals in the IEP
- New evaluation results, including information provided by parents
- The student's anticipated needs
- Other matters[13]

Transition Planning and Services

IDEA and School-to-Work Act transition requirements dovetail.

As discussed in detail in chapter 1, IDEA includes explicit provisions regarding the transition from school to work and other aspects of adult living. The statute calls for both *planning* for this transition, and providing *services* to prepare students to make it successfully. There are two sets of transition-related requirements under IDEA: one that comes into play at age 14, and one that is triggered by age 16. Each, respectively, dovetails with a key school-to-work program requirement: the requirement that career awareness, exploration, and counseling begin by the seventh grade; and the requirement that career majors be selected by the beginning of the eleventh grade. The link between these IDEA and School-to-Work Act provisions is explored in further detail later in this chapter.

Teacher, Student, and Parent Participation in Needs Identification and Planning

IEPs are developed by a team.

IEPs are developed at meetings by a team that includes at least the following people —

- The student's parents
- The student, whenever transition services are to be discussed, and at the family's discretion on all other occasions
- At least one of the student's "regular" education teachers
- At least one of the student's special education providers
- An individual qualified to interpret the instructional implications of evaluation results
- A representative of the school system who is qualified to provide or supervise the provision of special education, and is knowledgeable about the regular curriculum and the school system's resources
- A representative of any other agency that is likely to be responsible for providing or paying for transition services
- Other individuals with knowledge or special expertise about the student, at the discretion of the school system or parent[14]

The IDEA Amendments of 1997 allow states, if they so choose, to transfer the IDEA rights of parents to students when they reach the age of majority.[15] In states that exercise this option, students of legal age (18 in most states) must be invited to all IEP meetings.

In addition to developing IEPs, these teams review and revise them, as discussed above. IEP teams, supplemented with other qualified personnel, also make decisions about what kind of information to gather whenever a student is to be reevaluated (see above).

Linking School-to-Work Components With IDEA

Coordinate and integrate school-to-work components with IDEA.

Coordinating and integrating school-to-work with IDEA makes practical sense. It is also required by the School-to-Work Act.[16] By linking school-to-work program components with IDEA services and processes, policymakers, administrators, school-site mentors, teachers, and other educators can ensure that the school-to-work system equitably serves students with disabilities. Local partnerships, including local education agencies, should incorporate this linkage into program design from the outset. State decision-makers should require them to do so as a condition for receiving School-to-Work Act funds.

Examples illustrate how IDEA can be used as a tool for equity and quality.

The following examples illustrate some of the ways in which IDEA can be used as a tool for equity and quality in school-to-work systems, and further the School-to-Work Act's mandate to serve "all" students.

Linking Career Exploration, Awareness, and Counseling, and Major Selection With IDEA Transition Planning and Evaluations

Under the School-to-Work Act, career exploration, awareness, and counseling begin at the earliest age possible, and no later than the seventh grade. The purpose of these activities is to assist students to identify their interests, goals, and career majors — in short, to begin preparing for life after high school. IDEA, too requires that schools work with students to consider these issues: by the time a student reaches age 14, the student's IEP must address his or her course of study as it relates to postsecondary plans. Career awareness, exploration, and counseling should proceed this aspect of IEP development in order to make the latter meaningful. These school-to-work and IDEA activities must be done appropriately to ensure that students are not tracked into job training or other programs that will not prepare them for postsecondary education.

Parallel requirements under the two laws can be used to make one another more effective.

Each of these parallel requirements can be used to make the other more effective. Through participation in the career exploration, awareness, and counseling programs established for all students as part of the school-to-work system, students with disabilities can identify the goals and interests on which IDEA transition planning may then be based. And IDEA's individualized planning process may be used to develop any specialized supports a student may need to participate effectively in school-to-work career exploration, awareness, and counseling. For example, the IEP team might arrange for any necessary modifications in the way a career awareness curriculum is delivered to a student with a cognitive impairment. Or address the communication needs of a hearing-impaired student in career counseling.

Linking school-to-work and IDEA activities in this way can also pave the way for equitable participation and quality outcomes in career majors. Career awareness, exploration, and counseling culminate in selection of a career major by no later than the beginning of the eleventh grade. By monitoring and supporting a student through these earlier steps and collaborating with school-to-work staff, IEP teams can identify and design specialized instruction to address any skills a student will need to strengthen prior to beginning a career major. In collaboration with school-to-work program personnel, the IEP team can also address whether and how any entrance criteria need to be waived or modified for a particular student, and include in the IEP strategies for enabling the student to meet other entrance requirements.

Linking these school-to-work and IDEA activities promotes success in career majors.

Aligning IEPs With School-Based Learning

An IEP reflecting a student's choice of career major and school-to-work program must be in place before the program begins. This is critical if the problems raised by the case study in chapter 4 are to be avoided and school-based learning successful. It can be accomplished by aligning IDEA evaluations and IEPs to the skills and competencies that students in the program are expected to attain and the instructional methods used to teach them. The individualized planning process underlying IEP development can be a vehicle for designing the supplementary services, supports, modifications, and accommodations that may be needed to comply with the Perkins Act, §504, and the ADA, as well as for meeting IDEA requirements. In this way, equitable participation rights under the School-to-Work Act, the Perkins Act, §504, and the ADA can be fulfilled in tandem with IDEA.

A. Linking Evaluations to School-to-Work Curricula and Outcomes

Individualized educational evaluations are the foundation of IEP development. As discussed above, evaluations and reevaluations under IDEA must be designed to provide information about how a student's disability affects learning in the regular curriculum; the services and supports the student will need to meet the expectations set for all students; and the supports staff will need to assist him or her in doing so. Once a student has selected a career major, evaluations should be done to elicit this information in relation to the content and methods of the curricula in that program. School personnel can then use that information to develop an IEP linked to the course of study in the school-to-work program.

IDEA evaluations should elicit information relevant to participation in the school-to-work program.

B. IEP Content for School-to-Work Students

Each element of the IEP should be designed in light of the school-to-work program's content and desired outcomes. The statement of present levels of educational performance, for example, should include a discussion of present performance in relation to that content and those outcomes. IEP goals and objectives should be keyed to mastering and attaining them. The specific educational services to be provided should include all those necessary to meet the goals and objectives and attain the high standards set for all students in the regular and school-to-work curriculum.

IEP components should reflect school-to-work content and desired outcomes.

Through IEP meetings, school personnel, parents, and students can consider and provide for the full range of supports that may be called for, such as specialized instruction in school-to-work program content, modification of the content of the curriculum or the manner in which it is delivered, supports for regular academic and occupational educators, equipment modification, or the provision of assistive technology. For example, special educators and academic teachers in the school-to-work program might collaborate to modify delivery of the mathematics component of the curriculum for a student with a specific learning disability that affects mathematical reasoning.

Aligning IEPs With Work-Based Learning

IEPs should anticipate the content and methods of work-based learning.

IDEA evaluations and IEP development can function as tools for equity in work-based learning, just as they do in school-based learning. Well-planned evaluations can yield the information needed to align IEPs to the content and methods of work-based learning components and pave the way for mastery of the competencies desired for all students. IEP teams, working with school-site mentors and other school-to-work staff, can plan for any supports or accommodations a student will need at the workplace (e.g., equipment modification, provision of written materials in alternate formats, specialized instructional strategies, or the assistance of an aide). Drawing upon the individualized strategies developed through the IEP process, appropriate school personnel — whether special educators, regular educators, related services personnel, or school-site mentors — can collaborate and consult with workplace mentors and employers.

Linking Ongoing Evaluation and Problem Solving Under the School-to-Work Act and IEP Review and Revision Under IDEA

Linking problem solving under the School-to-Work Act with IDEA reevaluations and IEP reviews can promote student success.

The School-to-Work Act requires school-based learning components to include regularly scheduled student evaluations that involve ongoing consultation and problem solving with students to identify their academic strengths, weaknesses, and progress; workplace knowledge; goals; and the need for additional learning opportunities to master core academic and vocational skills.[17] IDEA similarly provides for ongoing, individualized problem solving through requirements for reevaluations and IEP review and revision when students do not make expected progress. These parallel school-to-work and IDEA requirements can be used to complement one another to promote student success.

Where the student evaluation called for by the School-to-Work Act reveals problems with academic progress, for example, the IEP team should convene to discuss the difficulties and make any adjustments to the student's specialized instruction and support services necessary to address them. Where appropriate, special educators and school-to-work educators might collaborate to develop appropriate additional learning opportunities to master core academic and vocational skills. Apprized of student difficulties, the IEP team might arrange for an IDEA reevaluation of the student to obtain new data to address issues that surfaced through the school-to-work process.

The above are just some of the ways in which IDEA may be used as a tool for quality and equity in school-to-work systems. The details of how these and other linkages can best be accomplished will, of course, depend upon the details of the particular school-to-work programs in question. Planning for these details from the start in school-to-work system and program design is central to realizing the promise of effective participation and high quality outcomes for all youth.

Notes to Chapter 7

1. 20 U.S.C. §1414(a)(1)(A), (2)(A).
2. 34 C.F.R.§104.35(a).
3. 34 C.F.R. §300.534(b) (1996); 34 C.F.R. §104.35(a) as interpreted by OCR in *School Administrative Unit 19 (NH)*, 16 EHLR [Education of the Handicapped Law Report] 86 (OCR 1/4/89) (poor academic performance should trigger evaluation); *Mineral County (NV) School District*, 16 EHLR 668 (OCR 3/16/90) (inappropriate and/or disruptive behavior should trigger evaluation).
4. 20 U.S.C. §§1414(a)(1)(B)(ii), (b)(2)(A).
5. 20 U.S.C. §§1414(b)(2), (3)(D), 1414(c)(1)(B)(ii), (iv), 1414(d)(1)(A). As explained in chapter 1, above, IDEA uses the term "general curriculum" to refer to what in other contexts is more typically called the "regular" curriculum.
6. 20 U.S.C. §1414(c).
7. *Id.*
8. *Id.*
9. As discussed in chapter 2, the curriculum in school-to-work programs must prepare students to meet the same academic standards set by the state for all students, and embodied in the "general curriculum" as that term is used in IDEA.
10. 20 U.S.C. §1412(a)(5); 34 C.F.R. §104.34(a); *Greer v. Rome City School District*, 950 F.2d 688 (11th Cir. 1991), *opinion withdrawn on other grounds*, 956 F.2d 1025 (11th Cir. 1992), *opinion reinstated*, 967 F.2d 470 (11th Cir. 1992); *Oberti v. Bd. Of Ed. Of Borough of Clementon*, 995 F.2d 1204 (3rd Cir. 1993).
11. 20 U.S.C. §1412(a)(14), incorporating by reference 20 U.S.C. §1453(c)(3)(D)(vii). Prior to enactment of the IDEA Amendments of 1997, this requirement appeared at 20 U.S.C. §1413(a)(3)(B). See also 34 C.F.R. §300.382(b), (c) (1996); *Timothy W. v. Rochester School District*, 875 F.2d 954, 966-67 (1st Cir. 1989), cert. denied, 110 S.Ct. 519 (noting the "thesis present in the original Act, that it is the state's responsibility to experiment, refine, and improve upon the educational services it provides," and observing that "Congress clearly saw education for the handicapped as a dynamic process, in which new methodologies would be continually perfected, tried, and either adopted or discarded, so that the state's educational response to each handicapped child's particular needs could be better met").
12. 20 U.S.C. §1413(a)(3)(A) (local educational agencies must ensure that all personnel necessary to carry out this part are appropriately and adequately prepared, consistent with the requirements of section 1453(c)(3)(D)). See also *Timothy W.*, *supra*, 875 F.2d at 975 ("[t]he law explicitly recognizes . . . that educational methodologies are not static, but are constantly evolving and improving. It is the school district's responsibility to avail itself of these new approaches in providing an education program geared to each child's individual needs.").

13. 20 U.S.C. §1414(d)(4)(A).
14. 20 U.S.C. §§1414(d)(1)(B); 34 C.F.R. §300.344(e) (1997).
15. 20 U.S.C. §1415(m).
16. 20 U.S.C. § 6143(d)(6)(H).
17. 20 U.S.C. §6112(5).

Purpose of Chapter —

To provide an overview of the data collection, monitoring, and evaluation activities called for by the career preparation laws, IDEA, and the General Education Provisions Act (GEPA), and their role in securing equity and quality for students with disabilities in school-to-work systems.

Chapter 8

Quality Evaluation

Data Collection, Monitoring, and Evaluation

This chapter will address the ongoing, systemic activities necessary to ensure that students with disabilities are successfully participating in high quality school-to-work systems. Legal requirements regarding the establishment and operation of data collection systems to monitor program performance, and to identify and overcome barriers to access, participation, and success by youth with disabilities will be discussed.

There are a variety of performance and evaluation requirements under the School-to-Work Act, Perkins, IDEA, and the General Education Provisions Act. The data collection and analysis they entail will yield a wealth of information relevant to the experience of students with disabilities in school-to-work systems, in terms of both quality and equity. Regardless of the particular legal source of the various required data collection, monitoring, and evaluation activities, the data they yield must be examined as a whole and a determination made as to whether students with disabilities are receiving lower quality educational opportunities.

School-to-Work Act

Performance Outcomes and Evaluation

The School-to-Work Act requires the Secretaries of the U.S. Departments of Labor and Education, in collaboration with states, to establish a system of performance measures for assessing state and local school-to-work programs.[1] This system of performance measures must determine —

The system of performance measures must address these areas.

- Progress in the development and implementation of state plans. State plans must include the basic program components under Title I of the act, such as —
  - Providing students with strong understanding and experience in all aspects of an industry
  - Integrating academic and vocational education
  - Designing the programs to meet the high academic standards established by the state for all students, and providing equal access to all program components
- Participation by employers, schools, students, and school dropouts, including information on gender, race, ethnicity, socioeconomic background, limited-English proficiency, and disability of all participants, as well as whether participants are academically talented
- Progress in addressing the needs of students and school dropouts
- Progress in meeting the goals of the state to ensure opportunities for young women to participate in programs, including in nontraditional employment through such programs
- Student outcomes by gender, race, ethnicity, socioeconomic background, limited-English proficiency, and disability, and whether the participants are academically talented students, including information on —
  - Academic learning gains
  - Strong experience in and understanding of all aspects of the industry
  - Staying in school and attaining (a) a high school diploma, GED, or alternative diploma for those students with disabilities for whom such is appropriate, (b) a skill certificate, and (c) a postsecondary degree
  - Placement and retention in further education, particularly in the career major of the student; job placement, retention, and earnings, particularly in the career major of the student
  - The extent to which the program has met the needs of employers[2]

Each state must submit reports using the performance measures.

Each state is responsible for preparing and submitting to the secretaries periodic reports using these measures.[3] The secretaries are responsible for completing a national evaluation of funded programs by September 30, 1998, that tracks and assesses the progress of implementation of state and local school-to-work systems and their effectiveness.[4] The areas required to be assessed demonstrate Congress's clear concern for quality and equity, judged both by implementation of key parts of the School-to-Work Act and by outcomes.

Efforts to Design a Performance-Measures System

Few local partnerships have provided information about students with disabilities.

The National School-to-Work Office has collaborated with states in designing a performance-measures system, called Progress Measures. Despite the clear language of the act in requiring information on the number of students with disabilities participating in school-to-work programs, few local partnerships thus far have provided this information. In June 1996, only 46% of the local partnerships had reported on the participation of students with disabilities. Further, only 34% of the local partnerships provided information regarding the participation of students with disabilities in at least one work-based learning activity.[5]

Congress was clear that a system was to be developed to measure outcomes of all students, including students with disabilities. The Senate Committee stated —

> . . . all students, including students with disabilities, must be part of the system of performance measures, and the national evaluation, and data from students with disabilities must be included in any performance outcome evaluation system and reports.[6]

Students with disabilities must be included in the performance-measures system, including data collection.

This concern was made concrete in the School-to-Work Act, which requires assessment of progress in serving students with disabilities. Therefore, local partnerships which do not currently have systems for collecting the required information are out of compliance with the law and must develop such systems.[7]

It is important that specific information regarding students with disabilities be collected for the purpose of determining the level of meaningful participation and access to school-to-work activities. All students must have access to fully participate in school-to-work activities. Any evaluation of the implementation of school-to-work systems must include a review of the diversity of student participation and the progress in making activities available to all students.

Early Evaluation of School-to-Work Systems

Early evaluation of school-to-work systems has revealed problems.

Under a contract with the U.S. Department of Education, Mathematica Policy Research, Inc. evaluated the implementation of school-to-work in eight states: Florida, Kentucky, Maryland, Massachusetts, Michigan, Ohio, Oregon, and Wisconsin.[8] The findings of the study of school-to-work systems in these states include the following —

- Early state efforts build on programs originating in vocational education
- Changes in school curriculum, such as career majors and integrating academic and vocational instruction, are a lower priority than career development or workplace activities
- Few students participate in a full range of school-to-work activities
- Many local partnerships are concentrating early efforts on promoting workplace activity[9]

These early findings regarding the development of school-to-work systems indicate that there is yet much to be done in building the state systems. Effective implementation, improvement, and oversight of school-to-work programs require measures that will ensure high quality programs, as discussed in chapter 2.

No information has thus far been provided by the National School-to-Work Office through its evaluation contractor, Mathematica Policy Research, Inc. regarding the specific experiences and status of youth with disabilities in state and local school-to-work systems. Without such information, this nation will have little to go by to understand what benefits or difficulties youth with disabilities have and continue to experience in terms of accessing and successfully participating in school-to-work systems. This information must be made available and used in improving public policies, state and local administrative practices, and learning opportunities for youth with disabilities.

The Carl D. Perkins Vocational and Technical Education Act

National Program Performance Information

The Secretary of Education is designated coordinator of annual data collection and analysis.

The 1990 Perkins Act authorized the establishment of a vocational education data system for the collection and analysis of data by the Secretary of Education. The 1998 act likewise calls for the collection, on a national basis, of information about the condition of vocational and technical education, and the effectiveness of state and local programs. The Secretary of Education must annually gather and analyze this performance information and report to Congress. The report must include an analysis of data regarding students with disabilities and other special populations.[10]

Program Monitoring, Evaluation, and Improvement: Local Responsibilities

Local Perkins recipients must review programs and work to overcome barriers.

As discussed in chapter 3, local recipients of Perkins funds must review their vocational education programs, and identify and adopt strategies to overcome barriers that result in lowering rates of access to or lowering success in the programs for students with disabilities, and other special populations.[11] Local recipients also must implement a process to independently evaluate and continuously improve their programs.[12] Program evaluations must include an assessment of how the needs of students with disabilities (and other special populations) are being met.[13]

The purpose of these evaluations and reviews is to see whether students, in fact, are provided programs that meet the core quality and equity requirements of Perkins, and to inform necessary change if they are not. To accomplish this, local program evaluations and reviews will need to include information regarding the extent to which all students are being provided with strong experience in and understanding of all aspects of the industry, and student progress in the achievement of basic and more advanced academic skills. The collection of this data should indicate any need to refocus local and/or state activities, assuming progress has been made or new information about the nature of problems has emerged. Local and state plans should then be revised based on the progress made in the implementation of the Perkins Act and information collected in the local program evaluations.[14]

In addition to these program evaluations and reviews, as discussed in the next section, local recipients must also participate in the statewide accountability system now required by Perkins.

Program Monitoring, Evaluation, and Improvement: State Responsibilities

The state is charged with multiple responsibilities.

The state has multiple responsibilities in the area of program monitoring, evaluation, and improvement. These include evaluating and assessing local programs, as well as operating a statewide accountability and program improvement system.

As an initial matter, the state must annually evaluate the effectiveness of vocational education programs, and actively involve parents, teachers, local businesses, and labor organizations in the process.[15] Another provision of the 1998 legislation requires an assessment of local programs that includes an assessment of how the needs of students with disabilities (and other special populations) are being met. The latter must include examination of how programs are designed to enable special-population students to meet the performance levels set for all students (see discussion below), and prepare them for further learning or for high-skill, high-wage careers.[16]

The state assesses the quality and compliance of local programs.

The purpose of these evaluations and assessments is to enable the state to determine how well local programs are carrying out Perkins' core quality and equity mandates. To fulfill this purpose, the required evaluations and assessments will need to scrutinize in depth the capability of vocational education programs to integrate academic and vocational instruction; provide *all* students with strong experience in and understanding of all aspects of the industry they are studying; develop their problem-solving, basic, and advanced academic skills; and enable them to attain the same high academic standards set for all students.

The state must also create an accountability system with core indicators and levels of performance.

Independently of the above-described evaluation and assessment requirements, the state must develop and implement a statewide accountability system for vocational education programs. The accountability system begins with the setting by the state of "core indicators of performance." These core indicators must include measures of at least four aspects of program effectiveness —

- Student attainment of challenging state academic, vocational and technical, and skill proficiencies
- Student attainment of a high school diploma or recognized equivalent, a proficiency credential in conjunction with a high school diploma, or a postsecondary degree or credential
- Placement and retention in, and completion of, postsecondary education or advanced training, placement in military service, or placement and retention in employment
- Student participation in and completion of vocational education and technical education programs that lead to nontraditional training and employment

States may establish additional indicators as they wish. All indicators must be described in the state plan required by the 1998 Perkins Act.[17]

Next, the state must set a "level of performance" for each core indicator of performance. Levels of performance must be quantifiable (and expressed in numbers or percentages), and require the state to continually make progress in improving the performance of vocational education students. They, too, must be included in the state plan.

These levels of performance in effect are really *proposed* levels of performance; once the state plan is filed with the U.S. Department of Education, the state and department negotiate them, and come to an agreement on what the final levels will be. The agreed-upon levels are called "adjusted levels of performance," and must be renegotiated after the first two years covered by the five-year state plan.[18]

The adjusted levels of performance (ALPs) are then used in two ways. First, the state must annually report to the U.S. Department of Education on its progress in achieving the ALPs, including the progress made by students with disabilities and other special populations.[19] If the state fails to meet them, it must develop and implement a program improvement plan, or face sanctions.[20]

Second, each year the state must evaluate local Perkins recipients' progress in achieving the ALPs. If a local recipient is not making substantial progress, the state must conduct an assessment of the educational needs that must be addressed to overcome the local deficiencies, and develop a local improvement plan. Required components for improvement plans include instructional and other programmatic innovations of demonstrated effectiveness and strategies for appropriate staffing and staff development. The state must also conduct regular evaluations of the local program's progress toward reaching the ALPs. All of these activities are to be carried out in consultation with parents, teachers, other school staff and other appropriate agencies, individuals, and organizations.[21]

State evaluation and accountability activities help meet Perkins obligations.

As noted above and in chapters 1 and 3, numerous provisions of Perkins require the state and schools to continuously plan for and address program access, quality, and effectiveness for students with disabilities (and other special population members). State evaluation, assessment, accountability, and program improvement activities are critical to meeting these obligations. To fulfill them, evaluation, assessment, and accountability/improvement activities must include collecting and analyzing separate information on students with disabilities regarding entrance, success and completion rates; separate information from each type of vocational program also must be collected and assessed. The analysis of data regarding entrance, success, and completion rates enables the state and schools to determine whether students' needs are being adequately addressed. Assessing data regarding the enrollment and completion rates of students with disabilities in each type of vocational program is necessary to determine whether certain programs are undersubscribed or oversubscribed by students with disabilities.

If there is undersubscription or oversubscription in particular programs by students with disabilities, or if there are gaps in progress regarding student mastery of all aspects of the industry or academic skills, the programs must identify areas for improvement to ensure equal access and achievement. The state must ensure that students with disabilities are receiving fair and equitable treatment in all vocational programs.

National Assessment

National independent evaluation is mandated.

The 1998 Perkins Act also mandates a national independent evaluation and assessment of vocational and technical education programs, to be completed by July 1, 2002. While this national assessment may provide some useful information for the purpose of Congressional review, it does not look at specific programs. Therefore, it is not an adequate tool for monitoring and evaluating the quality of programs and the participation of students with disabilities in high quality programs.[22]

Individuals With Disabilities Education Act

The 1997 IDEA amendments have an explicit focus on standards-based reform and success for students with disabilities in the regular curriculum. States must —

- Establish goals for performance of children with disabilities that are consistent, to the maximum extent appropriate, with other goals and standards for children established by the state, and
- Set performance indicators for assessing progress toward those goals, including performance on assessments, dropout rates, and graduation rates[23]

IDEA requires performance goals and indicators.

Thus, the state cannot develop separate and watered-down standards for students with disabilities. The state must report to the public on how well it is doing in meeting these indicators every two years.[24] In addition, the state must disclose statistics showing how students with disabilities performed on the general assessments given to all students, including the number who are participating and the level of achievement.[25] It is required to do the same with respect to students who take alternate assessments.[26]

States must report to the public on indicators and performance of students with disabilities.

Additionally, in annual reports to the federal government, each state must provide data on, among other things, the number of children with disabilities by race, ethnicity, and disability category —

- Who are being served under IDEA
- Who are participating in regular education
- Who are in separate classes, separate schools or facilities, or public or private residential facilities
- Who, for each year of age from age 14 to 21, stopped receiving special education and related services because of program completion or other reasons and the reason why those children stopped receiving special education and related services[27]

Additional data concerning placement and outcomes must be reported annually to the federal government.

If the data indicates significant racial disparities in identification of children with disabilities or placement in particular kinds of educational settings, the state must review, and if appropriate, revise its policies, procedures, and practices to ensure compliance with IDEA.[28]

Action must be taken if racial disparities exist.

Finally, the IDEA Amendments of 1997 create a new set of state improvement grants that address particular aspects of early intervention, regular education, and special education programs that need to be improved to enable students with disabilities to meet the state performance goals.

New state improvement grants address early intervention, regular education, and special education.

The state's improvement plan under this new grant program must be revised based on assessment of progress toward the state performance goals. It must describe how the state will change its policies and procedures to address systemic barriers to improving student's educational results, hold local education agencies and schools accountable, and provide technical assistance to local education agencies and schools to improve their students performance, including professional development to address the needs of school personnel.[29]

General Education Provisions Act

The General Education Provisions Act (GEPA)[30] and the regulations implementing it supplement the monitoring and compliance provisions of the School-to-Work Act, Perkins Act, and IDEA. GEPA applies to programs administered by the U.S. Department of Education, including the three just listed. Three interrelated aspects of GEPA are particularly relevant to ensuring quality and equity in school-to-work systems and other federally-funded programs (e.g., Perkins) —

GEPA provisions address program evaluation, quality, and equity.

- Under GEPA, applications for assistance under any program administered by the Department of Education must describe the steps that have been developed to ensure equitable access to, and equitable participation in, the project or activity to be funded, by addressing the special needs of students, teachers, and other program beneficiaries in order to overcome barriers to equitable participation, including barriers based on gender, race, color, national origin, disability, and age.[31]
- States and their subgrantees (including local partnerships under the School-to-Work Act) must comply with the provisions of their approved applications and program plans.[32] Thus the equity steps described in the application are binding and must be carried out.
- GEPA requires states to have procedures for evaluating the programs operated by its subgrantees, for providing technical assistance and for ensuring compliance with applicable laws.[33]

. . . . . .

Data collection, monitoring, and evaluation are crucial to the development and implementation of school-to-work systems that run high quality school-to-work programs. The School-to-Work Act, Perkins Act, and IDEA all contain requirements that guide the collection of data for the purpose of improving the quality of programs and ensuring that all students have access to all programs and the full range of activities within those programs.

Notes to Chapter 8

1. 20 U.S.C. §6192.
2. 20 U.S.C. §6192(a).
3. 20 U.S.C. §6192(c)(1).
4. 20 U.S.C. §6192(b).
5. See School-to-Work Progress Measures, A Report to the National School-to-Work Office for the period January 1, 1996-June 30, 1997, Tables 5 and 6.
6. Senate Report 103-179, pp. 24-25.
7. Recently, the National School-to-Work office scheduled a series of workshops around the country designed to provide guidance to local partnerships in establishing their information collection systems and providing information for the progress measures.
8. Partners in Progress: Early Steps in Creating School-to-Work Systems, prepared under contract for the Department of Education by Mathematica Policy Research, Inc., April 1997.
9. *Id.*, Table 1.
10. Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998, Pub. L. No. 105-332, 112 Stat. 3076 (October 31, 1998) (hereinafter "Pub. L. 105-332"), sec. 1, §114(a)(1), 112 Stat. at 3089 (to be codified at 20 U.S.C. §2324(a)(1)).
11. *Id.* at §134(b)(7)(a), 112 Stat. 3114-15 (to be codified at 20 U.S.C. §2354(b)(7)(A)).
12. *Id.* at §134(b)(6), 112 Stat. at 3114-15 (to be codified at 20 U.S.C. §2354(b)(6)).
13. *Id.* at §135(b)(5), 112 Stat. at 3115-16 (to be codified at 20 U.S.C. §2355(b)(5)).
14. See also *id.* at §122(a)(2)(B), 112 Stat. at 3102 (to be codified at 20 U.S.C. §2342(a)(2)(B)) (after the second year of a five-year state plan, a state must conduct a review of Perkins-assisted activities and revise the state plan as necessary).
15. *Id.* at §122(c)(3), (6), 112 Stat. at 3103-04 (to be codified at 20 U.S.C. §2342(c)(3), (6)).
16. *Id.* at §124(b), 112 Stat. at 3107 (to be codified at 20 U.S.C. §2344(b)).
17. *Id.* at §113(b)(2), 112 Stat. at 3087 (to be codified at 20 U.S.C. §2323(b)(2)).
18. *Id.* at §113(b)(3)(A), 112 Stat. at 3087-88 (to be codified at 20 U.S.C. §2323(b)(3)(A)).
19. *Id.* at §113(c), 112 Stat. at 3089 (to be codified at 20 U.S.C. §2323(c)).
20. *Id.* at §123(a), 112 Stat. at 3106 (to be codified at 20 U.S.C. §2343(a)).
21. *Id.* at §123(c), 112 Stat. at 3106 (to be codified at 20 U.S.C. §2343(c)).

22. Among other things, this national assessment must include descriptions and evaluations of: (1) participation in vocational education programs; (2) academic and employment outcomes of vocational and technical education, including the extent and success of integration of academic and vocational education, and the degree to which vocational education programs prepare students for high-wage, high-skill careers or participation in postsecondary education; and (3) teacher preparation and qualifications. *See* Pub. L. 105-332 at §114(c)(3), 112 Stat. at 3091 (to be codified at 20 U.S.C. 2324(c)(3)).
23. 20 U.S.C. §1412(a)(16).
24. *Id.*
25. 20 U.S.C. §1412(a)(17).
26. *Id.*
27. 20 U.S.C. §1418(a)(1)(A).
28. 20 U.S.C. §1418(c).
29. 20 U.S.C. §1451 *et seq.*
30. 20 U.S.C. §1221 *et seq.*
31. 20 U.S.C. §1228(a)(b).
32. 34 C.F.R. §76.700.
33. 34 C.F.R. §76.770.

Appendix

Federal and State Agencies With Implementation and Enforcement Responsibilities Under the Career Development and Civil Rights Laws

School-to-Work Opportunities Act

Federal

The School-to-Work Opportunities Act is jointly administered by the U.S. Departments of Education and Labor, through the National School-to-Work Office.

National School-to-Work Office
400 Virginia Avenue SW
Suite 210
Washington, DC 20024
(800) 251-7236
(202) 401-6222

State

The bulk of federal funding under the School-to-Work Opportunities Act is channeled to the state education agency (though there are a limited number of local partnerships that receive grants directly from the federal government), which then makes subgrants to local partnerships. The state education agency is responsible for proper implementation, including ensuring that subgrantees comply with legal requirements.

Carl Perkins Vocational and Technical Education Act

Federal

U.S. Department of Education
Office for Vocational and Adult Education
Mary E. Switzer Building
330 C Street SW
Washington, DC 20202
(202) 205-5451

State

For secondary education programs, Perkins funds flow to the state education agency, which then makes subgrants to local school systems and vocational-education programs. The state education agency is responsible for proper implementation, including ensuring that subgrantees comply with legal requirements.

Individuals With Disabilities Education Act

Federal

U.S. Department of Education
Office of Special Education Programs
Mary E. Switzer Building
330 C Street SW
Washington, DC 20202
(202) 205-5507

State

The state education agency has ultimate responsibility for seeing that each child with a disability receives a free appropriate public education, and for ensuring that local school systems and schools comply with all IDEA requirements.

Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans With Disabilities Act

Federal

For all programs receiving *any* federal funds from the U.S. Department of Education (Section 504), any state or local government programs or services related to elementary and secondary education systems and schools, institutions of higher education and vocational education (Title II of the ADA) —

U.S. Department of Education
Office for Civil Rights
Mary E. Switzer Building
330 C Street SW
Washington, DC 20202
(202) 205-5557

For all programs receiving *any* federal funds from the U.S. Department of Labor (Section 504), any state or local government programs or services relating to labor and the work force (Title II of the ADA) —

U.S. Department of Labor
Office of the Assistant Secretary for Administration and Management
Directorate of Civil Rights
200 Constitution Avenue NW, N4123
Washington, DC 20210
(202) 219-8927